

## CHAPTER Env-A 1800 ASBESTOS MANAGEMENT AND CONTROL

Statutory Authority: RSA 141-E:4, I and II

*Readopt with amendment Env-A 1801, eff. 10-21-08 (doc. #9298), to read as follows:*

### PART Env-A 1801 PURPOSE AND SCOPE

#### Env-A 1801.01 Purpose.

(a) The purpose of this chapter is to protect the health of the general public by ensuring that asbestos is managed in a manner that prevents the release of asbestos fibers to the environment and human exposure thereto.

(b) It is intended that the rules in this chapter be used in conjunction with other federal, state, and local requirements for managing and controlling asbestos, including but not limited to:

- (1) Administrative rules established by the department pursuant to RSA 149-M; and
- (2) Federal regulations, including those relating to worker safety, established by:
  - a. U.S. Occupational Safety and Health Administration (OSHA) in 29 CFR 1910 and 29 CFR 1926; and
  - b. U.S. Environmental Protection Agency (EPA) in 40 CFR 61 and 40 CFR 763.

Env-A 1801.02 Applicability. Subject to Env-A 1801.03, this chapter shall apply to the following ~~persons, facilities, and activities~~:

(a) Any person who owns or operates any facility that has regulated asbestos-containing material (RACM) on the premises;

(b) Any person involved in asbestos abatement activities, including analytical laboratories, consultants, asbestos abatement contractors, and asbestos abatement workers;

(c) Any source, other than an inactive waste disposal site that ceased operating by July 10, 1981, subject to 40 CFR 61, Subpart M, ***except as provided in Env-A 1801.02(e)(3)***;

(d) Any structure, installation, or building previously subject to this chapter, regardless of its current use or function;

(e) Training, licensure, and certification of persons who engage in:

- (1) Asbestos abatement activities, as defined by RSA 141-E:2, II;
- (2) School asbestos abatement planning activities, as defined by RSA 141-E:2, VIII; and
- (3) Activities involving the disturbance of asbestos at asbestos disposal sites as defined by RSA 141-E:2, III; and

(f) Provisions for inspection, compliance monitoring, and enforcement by the department.

#### Env-A 1801.03 Homeowners.

(a) The owner of a private, single-family residence occupied by the owner ***and not used as a rental dwelling***, who performs asbestos abatement activities on that residence shall not be subject to Env-A 1800, except as noted in (b), below, provided:

- (1) The owner personally performs the work; and
- (2) The work is not done within 6 months of selling the home.

(b) The owner of a private, single-family residence occupied by the owner who performs asbestos abatement activities on that residence shall comply with Env-A 1805.07 and Env-A 1805.08(a) and ~~(b)~~.

## PART Env-A 1802 DEFINITIONS

*Readopt Env-A 1802.01 through Env-A 1802.04, eff. 10-21-08 (doc. #9298), to read as follows:*

Env-A 1802.01 “Aggressive sampling” means air sampling which takes place while air is being physically agitated, which, upon analysis, is likely to give the highest airborne concentration of asbestos.

Env-A 1802.02 “Amended water” means water to which a chemical wetting agent has been added to improve penetration.

Env-A 1802.03 “Analytical service” means any firm or individual who analyzes bulk or air samples in order to determine asbestos content, asbestos fiber counting or total fiber counting.

Env-A 1802.04 “Approved training provider” means a training provider who offers asbestos abatement training courses that have been approved by the EPA, a state accreditation program which itself is accredited by the EPA, or by the department.

*Readopt with amendment Env-A 1802.05 and Env-A 1802.06, eff. 10-21-08 (doc. #9298), to read as follows:*

Env-A 1802.05 “Asbestos” means “asbestos” as defined in RSA 141-E:2, I, ~~namely “amosite, chrysotile, crocidolite, or asbestiform tremolite, actinolite, or anthophyllite.”~~ ***as reprinted in Appendix C.***

Env-A 1802.06 “Asbestos abatement” means “asbestos abatement” as defined in RSA 141-E:2, II, ***as reprinted in Appendix C.*** ~~namely “any of the following activities:~~

~~(a) The wrecking or removal of any load supporting structural member containing or covered by RACM, as defined in paragraph VII;~~

~~(b) The encapsulation, coating, binding, or resurfacing of structural members, walls, ceilings, or other building surfaces, or ducts, pipes, boilers, tanks, reactors, furnaces, or other vessels containing RACM for the purpose of minimizing the potential for fiber release;~~

~~(c) The construction of airtight enclosures by the use of impact resistant materials to isolate surfaces coated with or containing RACM;~~

~~(d) The removal or stripping of RACM from structural members, walls, ceilings, or other building surfaces, or ducts, pipes, boilers, tanks, reactors, furnaces, or other vessels; and~~

~~(e) The repair of RACM to minimize the likelihood of fiber release from damaged areas. Repair may include, but shall not be limited to, application of duct tape, rewettable glass cloth, canvas, cement, or other suitable materials to seal exposed areas where asbestos fibers may be released, or repair of damaged, previously encapsulated, RACM with non-asbestos substitutes; and re-encapsulation or repair of enclosures around RACM.”~~

*Readopt Env-A 1802.07 and Env-A 1802.08, eff. 10-21-08 (doc. #9298), to read as follows:*

Env-A 1802.07 “Asbestos abatement entity” means any legal entity, including but not limited to any business concern, governmental unit or subunit, religious or social organization, or union, that has at least one officer, employee, or member involved in any major or minor asbestos abatement project.

Env-A 1802.08 “Asbestos abatement project designer” means an individual who is certified pursuant to RSA 141-E:11 to:

- (a) Conduct, plan, design, and develop procedures for asbestos abatement projects; or
- (b) Provide other substantive direction or criteria for asbestos abatement projects.

*Readopt with amendment Env-A 1802.09 and Env-A 1802.10, eff. 10-21-08 (doc. #9298), to read as follows:*

Env-A 1802.09 “Asbestos abatement supervisor” means an individual who is certified pursuant to Env-A ~~18401811~~1.13 to direct and control the asbestos abatement work of an asbestos abatement worker.

Env-A 1802.10 “Asbestos abatement worker” means an individual who is certified pursuant to Env-A ~~18401811~~1.14 to perform asbestos abatement work under the supervision of an asbestos abatement supervisor.

*Readopt Env-A 1802.11, eff. 10-21-08 (doc. #9298), to read as follows:*

Env-A 1802.11 “Asbestos-containing material (ACM)” means any material that contains any type of asbestos in an amount greater than one percent by weight, area, or volume, either alone or mixed with other fibrous or non-fibrous materials.

*Readopt with amendment Env-A 1802.12, eff. 10-21-08 (doc. #9298), to read as follows:*

Env-A 1802.12 “Asbestos disposal site” means “asbestos disposal site” as defined in RSA 141-E:2, III, ~~namely “land where asbestos waste exists, either in or on the ground, due to dumping activities which ceased by July 10, 1981. The term includes inactive disposal sites as defined by 40 CFR 61.141. The term does not include any disposal site which is subject to the permitting requirements of RSA 149-M.”~~ ***as reprinted in Appendix C.***

*Readopt Env-A 1802.13 through Env-A 1802.15, eff. 10-21-08 (doc. #9298), to read as follows:*

Env-A 1802.13 “Asbestos Hazard Emergency Response Act (AHERA)” means the Asbestos Hazard Emergency Response Act, Public Law 99-519, promulgated by the U.S. Congress on October 22, 1986.

Env-A 1802.14 “Asbestos inspector” means an individual who is capable of identifying asbestos hazards in a commercial, private, or residential structure, and who has completed, at a minimum, a training course for asbestos inspectors meeting the requirements of 40 CFR 763, subpart E, appendix C, section I:B.3.

Env-A 1802.15 “Asbestos management planner” means an individual who is certified pursuant to RSA 141-E:11 to assess the health hazard posed by ACM, determine the appropriate response action, and develop a schedule for implementing a response action.

*Readopt with amendment Env-A 1802.16 through Env-A 1802.19, eff. 10-21-08 (doc. #9298), to read as follows:*

Env-A 1802.16 “Authorized representative” means employees of the department, ~~city or town health officers~~ ***local government***, or others as designated by the commissioner pursuant to RSA 141-E:13.

Env-A 1802.17 “Building owner” means the person in whom legal or beneficial title to a facility is vested. ***The term includes a duly-authorized representative of the building owner.***

Env-A 1802.18 “Category I nonfriable ACM” means “Category I nonfriable asbestos-containing material (ACM)” as defined in 40 CFR 61.141 as in effect on July 1, ~~2007~~ ***2015***, ~~namely “asbestos-containing packings, gaskets, resilient floor covering, and asphalt roofing products containing more than 1 percent asbestos as determined using the method specified in appendix E, subpart E, 40 CFR part 763, section 1, Polarized Light Microscopy.”~~ ***as reprinted in Appendix D.***

Env-A 1802.19 “Category II nonfriable ACM” means “Category II nonfriable ACM” as defined in 40 CFR 61.141 as in effect on July 1, ~~2007~~ ***2015***, ~~namely “any material, excluding Category I nonfriable ACM, containing more than 1 percent asbestos as determined using methods specified in appendix E, subpart E, 40 CFR part 763, section 1, Polarized Light Microscopy that, when dry, cannot be crumbled, pulverized, or reduced to powder by hand pressure.”~~ ***as reprinted in Appendix D.***

*Readopt Env-A 1802.20, eff. 10-21-08 (doc. #9298), to read as follows:*

Env-A 1802.20 “Clean room” means an uncontaminated area or room which is part of the worker decontamination enclosure system and includes storage of workers’ street clothes and clean protective equipment.

*Readopt with amendment Env-A 1802.21, eff. 10-21-08 (doc. #9298), to read as follows:*

Env-A 1802.21 “Contractor” means “contractor” as defined in RSA 141-E:2, IV, ~~namely “any partnership, firm, association, corporation, or sole proprietorship which engages in asbestos abatement activities and/or activities involving the disturbance of asbestos at asbestos disposal sites.”~~ ***as reprinted in Appendix C.***

*Readopt Env-A 1802.22, eff. 10-21-08 (doc. #9298), to read as follows:*

Env-A 1802.22 “Crumb” means a particle that is large enough to be readily separately visible and reducible to loose powder or loose fibers by hand pressure.

*Readopt with amendment Env-A 1802.23 and Env-A 1802.24, eff. 10-21-08 (doc. #9298), to read as follows:*

Env-A 1802.23 “Demolition” means the wrecking ***of any part of a facility’s structure*** or taking out of any load-supporting structural member of a facility together with any related handling operation or the intentional burning of any facility.

Env-A 1802.24 “Department” means ~~“department” as defined in RSA 141-E:2, V, namely “the department of environmental services.”~~

*Readopt Env-A 1802.25 through Env-A 1802.30, eff. 10-21-08 (doc. #9298), to read as follows:*

Env-A 1802.25 “Emergency asbestos abatement project” means any asbestos abatement activity requiring immediate action due to public health reasons or safety reasons or economic hardship, which was not planned but results from a sudden, unexpected event. The term includes activities necessitated by non-routine failures of asbestos-containing equipment, the repair of which would require asbestos abatement.

Env-A 1802.26 “Encapsulant” means a material that is applied to an ACM in order to prevent the ACM or any of its components from being exposed to ambient conditions.

Env-A 1802.27 “Encapsulation” means the application of an encapsulant to ACM to control the release of asbestos fibers into the air, either by using bridging encapsulants, which create a membrane over the surface of the ACM, or by using penetrating encapsulants, which penetrate the ACM and bind its components together.

Env-A 1802.28 “EPA AHERA regulations” means the regulations as adopted by the U.S. Environmental Protection Agency in 40 CFR Part 763 subpart E.

Env-A 1802.29 “EPA-approved training course” means any training course that has received EPA approval, as published in the “National Directory of AHERA Accredited Courses” (NDAAC), for the purposes of providing training to fulfill any license or certification requirement under these rules.

Env-A 1802.30 “Equipment room” means a contaminated area or room which is part of the worker decontamination enclosure system and which includes the storage of contaminated clothing and equipment.

*Readopt Env-A 1802.31, eff. 10-18-14 (doc. #10695), to read as follows:*

Env-A 1802.31 “Facility” means any institutional, commercial, public, or private building or structure, work place, ship, installation, utility infrastructure, active waste disposal site, inactive waste disposal site operated after July 9, 1981, or rental dwelling.

*Readopt with amendment Env-A 1802.32, eff. 10-21-08 (doc. #9298), to read as follows:*

Env-A 1802.32 “Friable asbestos material” means “friable asbestos material” as defined in RSA 141-E:2, VI, ~~namely “any material that contains more than one percent of asbestos by weight, area, or volume and~~

~~that can be crumbled, pulverized, or reduced to powder when dry by hand pressure.”~~ ***as reprinted in Appendix C.***

*Readopt Env-A 1802.33 and Env-A 1802.34, eff. 10-21-08 (doc. #9298), to read as follows:*

Env-A 1802.33 “Glovebag” means a sealed compartment with attached inner gloves used for the handling of ACM.

Env-A 1802.34 “HEPA filtration” means high efficiency particulate air filtration capable of filtering all particles larger than 0.3 micron with 99.97 percent efficiency.

*Adopt Env-A 1802.35 to read as follows:*

***Env-A 1802.35 “License holder” means the individual or legal entity whose name appears on the license.***

*Readopt Env-A 1802.35 through Env-A 1802.42, eff. 10-21-08 (doc. #9298), and renumber as Env-A 1802.36 through Env-A 1802.43, to read as follows:*

Env-A 1802.~~35~~**36** “Loose” means subject to movement by or in air, such as powder or fibers which can easily be blown or shaken from the hand.

Env-A 1802.~~36~~**37** “Maintenance worker” means an individual who engages in work activities designed or intended to contribute to the on-going routine maintenance of a facility, including but not limited to building maintenance, electrical work, plumbing, carpentry, masonry, custodial services, and heating services, and whose primary occupation is not asbestos abatement.

Env-A 1802.~~37~~**38** “Major asbestos abatement project - Class N” means any asbestos abatement project involving 260 linear feet, 160 square feet, or 35 cubic feet, or more, of RACM.

Env-A 1802.~~38~~**39** “Major asbestos abatement project - Class S demolition” means any asbestos abatement project involving less than 260 linear feet, 160 square feet, or 35 cubic feet of RACM, and which occurs within the context of a demolition as defined by this part.

Env-A 1802.~~39~~**40** “Major asbestos abatement project - Class S renovation” means any asbestos abatement project involving less than 260 linear feet, 160 square feet, or 35 cubic feet of RACM, but more than 10 linear feet, 25 square feet or 3 cubic feet, and which occurs within the context of a renovation as defined by this part.

Env-A 1802.~~40~~**41** “Manager” means any person who is responsible for the control, operation, or maintenance of a building, facility, school, or rental dwelling which is owned by another person.

Env-A 1802.~~41~~**42** “Minor asbestos abatement project” means any asbestos abatement renovation activity which encompasses not more than 10 linear feet, 25 square feet, or 3 cubic feet of RACM. The term does not include larger projects that are divided into smaller segments.

Env-A 1802.~~42~~**43** “Model accreditation plan (MAP)” means the plan as adopted by the EPA in 40 CFR Part 763, subpart E, appendix C.

*Readopt with amendment Env-A 1802.43, eff. 10-21-08 (doc. #9298), and renumber as Env-A 1802.44, to read as follows:*

Env-A 1802.~~43~~**44** “Owner or operator (O/O)” for the purpose of this chapter means “owner or operator of a demolition or renovation activity” as defined in 40 CFR 61.141, ~~namely “any person who owns, leases, operates, controls, or supervises the facility being demolished or renovated or any person who owns, leases, operates, controls, or supervises the demolition or renovation operation, or both.”~~ ***as reprinted in Appendix D.***

*Readopt Env-A 1802.44, eff. 10-21-08 (doc. #9298), and renumber as Env-A 1802.45, to read as follows:*

Env-A 1802.4445 “Person” means any individual, partnership, company, public or private corporation, political subdivision or agency of the state, department, agency or instrumentality of the United States, or any other legal entity.

*Readopt with amendment Env-A 1802.45 and Env-A 1802.46, eff. 10-21-08 (doc. #9298), and renumber as Env-A 1802.46 and Env-A 1802.47, to read as follows:*

Env-A 1802.4546 “Private dwelling” means any residence, as defined in RSA 21:6-a, ~~which~~***that*** is occupied by the owner.

Env-A 1802.4647 “Regulated Asbestos-Containing Material (RACM)” means: ***“regulated asbestos-containing material” as defined in RSA 141-E:2, VII, as reprinted in Appendix C.***

- ~~(a) Friable ACM;~~
- ~~(b) Category I nonfriable ACM that has become friable;~~
- ~~(c) Category I nonfriable ACM that will be or has been subjected to sanding, grinding, cutting, or abrading; or~~
- ~~(d) Category II nonfriable ACM that will likely become or has become crumbled, pulverized, or reduced to powder by the forces expected to act on the material in the course of demolition or renovation operations.~~

*Readopt Env-A 1802.47 and Env-A 1802.48, eff. 10-21-08 (doc. #9298), and renumber as Env-A 1802.48 and Env-A 1802.49, to read as follows:*

Env-A 1802.4748 “Removal” means the stripping of any RACM from surfaces or components within or at a facility.

Env-A 1802.4849 “Renovation” means altering a facility or any facility component(s) in any way, including the stripping or removal of RACM from any facility or facility component(s).

*Readopt with amendment Env-A 1802.49, eff. 10-21-08 (doc. #9298), and renumber as Env-A 1802.50, to read as follows:*

Env-A 1802.4950 “Rental dwelling” means any residence as defined in RSA 21:6-a ~~which~~***that*** is occupied by someone other than the owner.

*Readopt Env-A 1802.50 and Env-A 1802.51, eff. 10-21-08 (doc. #9298), and renumber as Env-A 1802.51 and Env-A 1802.52, to read as follows:*

Env-A 1802.5051 “Responsible person” means each individual who owns a license holder, or who has managerial, supervisory, or substantial decision-making authority and responsibility for the activities of a license holder, or any combination thereof, including:

- (a) For a corporation, the following:
  - (1) All officers and directors;
  - (2) All shareholders, if a privately held corporation, or all shareholders holding 10 percent or more of the corporation’s debt or equity, if a publicly traded corporation; and
  - (3) All management and supervisory personnel;
- (b) For a partnership, all partners, whether general or limited, and all management and supervisory personnel;
- (c) For an association or other organization, all principals, members, and participants, as applicable, and all management and supervisory personnel; and
- (d) For a municipality or other political subdivision of the state, the individuals elected or appointed to oversee or manage the prudential affairs of the political subdivision, and the managers and supervisors of the department(s) that will perform work under the authority of the license.



Env-A 1802.5152 “School” means any non-profit institution, whether private or public, day or residential, that provides elementary or secondary education, or both, including kindergarten but excluding day care centers.

*Adopt Env-A 1802.53 to read as follows:*

***Env-A 1802.53 “School asbestos abatement planning” means “School asbestos abatement planning” as defined in RSA 141-E:2, VIII, as reprinted in Appendix C.***

*Readopt with amendment Env-A 1802.52, eff. 10-21-08 (doc. #9298), and renumber as Env-A 1802.54, to read as follows:*

Env-A 1802.5254 ~~“Sheets” or “Sheeting”~~ means any waterproof material which can be used to make air-tight barriers. ***The term includes “sheets”.***

*Readopt Env-A 1802.53, eff. 10-21-08 (doc. #9298), and renumber as Env-A 1802.55, to read as follows:*

Env-A 1802.5355 “Shower room” means a room between the clean room and the equipment room in the worker decontamination enclosure with running water that is suitably arranged for complete showering during decontamination.

*Readopt with amendment Env-A 1802.54, eff. 10-21-08 (doc. #9298), and renumber as Env-A 1802.56, to read as follows:*

Env-A 1802.5456 “Small-scale, short-duration activities (SSSD)” means “small-scale, short-duration activities (SSSD)” as defined in 40 CFR 763, subpart E, appendix C, July 1, 2001-2015 edition, ***as reprinted in Appendix D. namely:***

~~“(1) Tasks such as, but not limited to:~~

- ~~a. Removal of asbestos containing insulation on pipes;~~
- ~~b. Removal of small quantities of asbestos containing insulation on beams or above ceilings;~~
- ~~c. Replacement of an asbestos containing gasket on a valve;~~
- ~~d. Installation or removal of a small section of drywall;~~
- ~~e. Installation of electrical conduits through or proximate to ACM;~~
- ~~f. Removal of small quantities of ACM only if required in the performance of another maintenance activity not intended as asbestos abatement;~~
- ~~g. Removal of asbestos containing thermal system insulation not to exceed amounts greater than those which can be contained in a single glove bag;~~
- ~~h. Minor repairs to damaged thermal insulation which do not require removal;~~
- ~~i. Repairs to a piece of asbestos containing wallboard;~~
- ~~j. Repairs, involving encapsulation, enclosure, or removal, to small amount of friable ACM only if required in the performance of emergency or routine maintenance activity and not intended solely as asbestos abatement. Such work may not exceed amounts greater than those which can be contained in a single prefabricated mini enclosure. Such an enclosure shall conform spatially and geometrically to the localized work area, in order to perform its intended function.~~

~~(2) For the purposes of this chapter, SSSD projects shall be limited to less than or equal to 3 linear feet of asbestos surface on pipes or ducts, or 3 square feet of asbestos containing building material on surface structures other than pipes or ducts.”~~

*Adopt Env-A 1802.57 to read as follows:*

***Env-A 1802.57 “Structural member” means “structural member” as defined in RSA 141-E:2, IX, as reprinted in Appendix C.***

*Readopt Env-A 1802.55, eff. 10-21-08 (doc. #9298), and renumber as Env-A 1802.58, to read as follows:*

Env-A 1802.5558 “Tape” means a high quality duct tape or similar adhesive material which can resist both moisture and wear.

*Readopt with amendment Env-A 1802.56, eff. 10-18-14 (doc. #10695), and renumber as Env-A 1802.59, to read as follows:*

Env-A 1802.5659 “Utility infrastructure” means any active or abandoned above-ground or underground system intended to convey a service, such as electricity, or to remove a waste, such as sewage, or to store a material, such as fuel, that is either constructed or insulated ~~in~~ ***with*** ACM, including but not limited to transite pipe, electrical line, water line, sewer line, heating line, roadway, or storage tank.

*Renumber the heading of Env-A 1804 as Env-A 1803, to read as follows:*

PART Env-A ~~1804~~**1803** INSPECTIONS AND RECORDKEEPING

*Readopt Env-A 1804.01, eff. 10-21-08 (doc. #9298), and renumber as Env-A 1803.01, to read as follows:*

Env-A ~~1804~~**1803.01** Inspections Required Prior to Commencing Demolition or Renovation.

(a) Prior to undertaking any demolition or renovation as defined by this chapter, the O/O shall provide for an inspection by an asbestos inspector of the affected portion(s) of the facility for the presence of ACM.

(b) For an inspection of a school building required pursuant to (a), above, the inspection shall be performed by an asbestos inspector who is certified under Env-A ~~1810~~**1811** to perform asbestos inspections.

*Readopt with amendment Env-A 1804.02, eff. 10-21-08 (doc. #9298), and renumber as Env-A 1803.02, to read as follows:*

Env-A ~~1804~~**1803.02** Documents To Be Retained On-site. ***During asbestos abatement, Each O/O of a facility where an asbestos abatement project is occurring shall retain the following documents on-site, in electronic or paper format, for the duration of the asbestos abatement project:***

- (a) A current copy of this chapter;
- (b) Copies of the decontamination procedures used for the decontamination enclosure system required by Env-A 1805.06 or any other procedures which have been established to prevent contamination of areas outside the work area;
- (c) Copies of procedures to be followed during medical or fire emergencies, including phone numbers of the nearest emergency facilities;
- (d) Copies of all licenses, certificates, and proof of ***current*** training held by all supervisors and workers engaged in the asbestos abatement project;
- (e) Records of all project-related air sampling results ***and a copy of the inspection report prepared by the asbestos inspector; and***
- (f) A copy of any written notification concerning the asbestos abatement project submitted to the department pursuant to Env-A ~~1803~~**1804**; ***and***
- (g) ***The work plan for the asbestos abatement project.***

*Readopt with amendment Env-A 1804.03, eff. 10-21-08 (doc. #9298), as amended eff. 10-18-14 (doc. #10695), and renumber as Env-A 1803.03, to read as follows:*

Env-A ~~1804~~**1803.03** Required Records. ***After the project is complete, Each O/O of a facility where an asbestos abatement project has occurred shall record and maintain the following information, in electronic or paper format, for each project:***

- (a) The name, title, and address of each supervisor and worker ***who participated in*** the project;
- (b) The address of the project;



- (c) The work plan for the project;
- (d) ***All notifications and revisions submitted to the department pursuant to Env-A 1804;***
- (e) ***Waste shipment records and disposal site slips for all RACM taken from the project site;***
- (~~d~~f) The estimated amount of RACM involved in the project;
- (~~e~~g) The scheduled and actual starting and completion dates and, if an actual date differs from the date originally scheduled, a statement of reasons for the difference(s);
- (~~f~~h) Documentation of compliance with all applicable requirements of this chapter;
- (~~g~~i) Copies of all asbestos-related correspondence with the department and other state and federal agencies concerning the project, including but not limited to building or demolition permits, notices of violation, or other documents relating to permits;
- (~~h~~j) The name and address of the asbestos disposal facility to which the RACM was taken;
- (~~i~~k) The methodology and results of all air sampling, ***including clearance testing***, conducted during the abatement process, the name and address of any consultant hired to perform such sampling, and the name and address of any analytical service employed to analyze such samples; and
- (~~j~~l) Descriptions of worksite accidents and unplanned or planned exposures to asbestos.

*Readopt with amendment Env-A 1804.04 and Env-A 1804.05, eff. 10-21-08 (doc. #9298), and renumber as Env-A 1803.04 and Env-A 1803.05, to read as follows:*

Env-A ~~1804-1803~~.04 Retention of Records.

- (a) The O/O shall make the records described in Env-A ~~1804-1803~~.03 available to the department upon request.
- (b) Records shall not be destroyed unless they are more than 30 years old, dated from the completion of the asbestos abatement project.

Env-A ~~1804-1803~~.05 Compliance Inspections and Production of Records.

- (a) Upon the request of the department, in conjunction with any inspection pursuant to RSA 141-E:8 or RSA 141-E:13, building owners or managers shall review building records for references to ACM used in construction or repairs and provide all information found to the department in writing.
- (b) If, during an inspection pursuant to RSA 141-E:8 or RSA 141-E:13, the authorized representative observes material suspected of being friable ACM, the authorized representative shall touch or rub the suspect material to determine friability.
- (c) If the suspect material is friable, the authorized representative shall:
  - (1) Collect 3 bulk samples of the material;
  - (2) Collect air samples; and
  - (3) Have the samples analyzed by an asbestos analysis service which meets the criteria set forth under Env-A ~~1808-1809~~.
- (d) The department shall provide a copy of the analytical results to the O/O, building manager, or other interested parties upon receipt of a written request.

*Readopt Env-A 1804.06 and Env-A 1804.07, eff. 10-21-08 (doc. #9298), and renumber as Env-A 1803.06 and Env-A 1803.07, to read as follows:*

Env-A ~~1804~~***1803.06*** Determination of Damage or Deterioration. Friable ACM shall be deemed to be deteriorated or damaged if:

- (a) The material has pulled away from the underlying surface; or
- (b) Evidence of physical damage exists, such as gouges or cuts in the material or debris matching the material is on the surface below the material.

Env-A ~~1804~~***1803.07*** Determination of the Potential for Significant Human Exposure. As a result of an inspection under RSA 141-E:8 or RSA 141-E:13, the department shall determine that there is a potential for significant human exposure if:

- (a) There is an increase in the proximity of friable ACM to an air plenum or direct air stream;
- (b) There is an increase in the visibility and accessibility of friable ACM to building occupants and maintenance workers; or
- (c) An increase or change in the degree of activity in or around the building increases the risk the friable ACM will be released into the air, including air movement, vibration, installing new machinery, and moving of building occupants.

*Readopt with amendment Env-A 1804.08, eff. 10-21-08 (doc. #9298), and renumber as Env-A 1803.08, to read as follows:*

Env-A ~~1804~~ ***1803.08*** Inspections of Private Dwellings.

- (a) As provided in RSA 141-E:8, III:
  - (1) The owner of a private dwelling may request the department to inspect the dwelling for the presence of RACM;
  - (2) If the department finds RACM, the department shall make recommendations to the owner for the abatement of the RACM; and
  - (3) The department shall charge a fee for such inspections.
- (b) The fee required by RSA 141-E:8, III shall be calculated in accordance with Env-A ~~1804~~***1803.09(b)***.
- (c) The owner of a private ~~residence~~***dwelling*** who wishes to request an inspection may first request the department to provide an estimate of the fee.
- (d) If an estimate is requested pursuant to (c), above, the estimate shall be:
  - (1) Based on the best professional judgment of the department; and
  - (2) Provided by the department to the ~~property~~ owner in writing.
- (e) The final fee assessed shall reflect the actual costs as determined pursuant to Env-A ~~1804~~***1803.09(b)***, and so might be higher or lower than the estimate provided in advance of the inspection.
- (f) The department shall send a bill for the fee to the ~~property~~ owner, who shall pay the fee within 30 days of the date of the department's bill.

*Readopt Env-A 1804.09, eff. 10-21-08 (doc. #9298), and renumber as Env-A 1803.09, to read as follows:*

Env-A ~~1804~~**1803**.09 Inspection and Compliance Monitoring Fees.

(a) Whenever the department conducts an inspection under RSA 141-E:8 or RSA 141-E:13, with or without collecting and analyzing samples, in order to evaluate compliance with RSA 141-E, the department shall charge a fee for the inspection and any sample collection and analysis.

(b) The fee charged shall be the sum of the individual personnel testing and monitoring fee as specified in (c), below, and the fees for sample analysis as specified in (d), below.

(c) The individual personnel testing and monitoring fee shall be the sum of the following for each department employee who participates in the inspection:

- (1) Travel costs, based on the state of New Hampshire's standard mileage reimbursement rate;
- (2) Lodging costs, if lodging is or becomes necessary due to the amount of time needed for travel and the inspection, the distance from Concord, and weather conditions;
- (3) Cost of meals, if the time needed for the inspection and travel exceeds 4 hours;
- (4) Costs of specialty equipment and consumable supplies, where these costs were incurred specifically in order to carry out the specific inspection; and
- (5) The product of the number of hours or portion thereof which the employee spent traveling and inspecting, multiplied by the hourly rate, including benefits, of that employee.

(d) The schedule of fees for sample analyses shall be as follows:

- (1) Bulk samples shall be \$75 per sample analyzed by polarized light microscopy (PLM);
- (2) Air samples shall be \$50 per sample when analyzed by phase contrast microscopy (PCM); and
- (3) Air samples shall be \$250 per sample when analyzed by transmission electron microscopy (TEM).

(e) The department shall send the bill for the fee to the O/O of the facility. The fee shall be paid within 30 days of the date of the department's bill.

*Readopt with amendment Env-A 1803, eff. 10-21-08 (doc. #9298), and renumber as Env-A 1804, to read as follows:*

PART Env-A ~~1803~~**1804** NOTIFICATION AND FEESEnv-A ~~1803~~ **1804**.01 Notification for Major Asbestos Abatement Projects.

(a) Except as provided in Env-A ~~1803~~**1804**.04, the owner or operator (O/O) shall provide written notification to the department and the ~~city or town health officer~~**local government official**, as applicable, for the **asbestos abatement project** worksite location.

(b) The notice required by (a), above, shall:

- (1) Contain the information specified in Env-A ~~1803~~ **1804**.06; and
- (2) Be provided at least 10 working days before **any** asbestos abatement activity begins ~~at any major asbestos abatement project~~.

(c) ***If a change in start or completion date or a break in operation occurs, the department shall be notified within 24 hours via telephone, fax or electronic mail.***

Env-A ~~1803~~ ***1804.02*** Notification for Minor Asbestos Abatement Projects. Notification to the department shall not be required for any minor asbestos abatement projects.

Env-A ~~1803~~ ***1804.03*** Notification for Demolitions.

(a) The O/O shall provide written notification to the department and to the ~~city or town health officer~~ ***local government official***, as applicable, ~~to~~ ***for*** the ***demolition project*** worksite location.

(b) The notice required by (a), above, shall:

(1) Contain the information specified in Env-A ~~1803~~-***1804.06***; and

(2) Be provided at least 10 working days before any demolition activity begins.

(c) ***Except for utility infrastructures as defined in Env-A 1802.56***, ~~No~~ notification under (a), above, shall be provided even if no ACM is contained in the facility.

Env-A ~~1803~~-***1804.04*** Annual Notification.

(a) In lieu of the notification required pursuant to Env-A ~~1803~~-***1804.01***, and subject to (d), below, the O/O of a facility expected to undergo a Class S major asbestos abatement in the next calendar year may file an annual notification to cover the period from January 1 of the new calendar year to December 31 of the same year.

(b) Such annual notification shall be made at least 10 working days prior to the start of the new calendar year.

(c) After filing an annual notification, the O/O shall provide the department with quarterly reports of activities performed under such annual notification that include dates of removal, amounts and kinds of RACM removed, and disposal site used.

(d) The O/O shall give separate, individual notification as specified in Env-A ~~1803~~ ***1804.01*** for each major asbestos abatement project – Class N that occurs at the facility, regardless of whether an annual notification has been filed for the facility.

Env-A ~~1803~~-***1804.05*** Notification for Emergency Asbestos Abatement Projects. For emergency asbestos abatement projects, the O/O shall:

(a) Notify the department as early as possible prior to abatement or, if prior notice is not possible, within 24 hours of the beginning of each emergency asbestos abatement activity with information required under this part.

(b) If notice under (a), above, is provided orally, provide written notification in accordance with this part to the department no later than 48 hours after the beginning of an emergency asbestos abatement.

Env-A ~~1803~~-***1804.06*** Information Required.

(a) In any notification required by this part, the O/O shall:

(1) Provide the information required by 40 CFR 61.145(b)(4); and

(2) Present that information in the format specified in 40 CFR 61.145(b)(5).

(b) Any additional information not specifically required by this part, but necessary to completely describe the scope of the project, shall be provided ~~on~~ ***separately from the required information, whether on paper or electronically***.

(c) Hours of operation ***on site*** shall be included on the notification document ***for purposes of inspection.***

Env-A ~~1803~~***1804***.07 Revised Notification. Asbestos abatement activities occurring outside the starting and completion dates shall be a violation of this notification requirement unless a revised notification is received by the department prior to the revised or original start date, whichever is earlier, or prior to the original completion date in the event of an extension or overrun.

Env-A ~~1803~~***1804***.08 Disposal Only.

(a) Each person hired by an O/O ~~solely~~ ***only*** to transport and dispose of ACM shall provide written notification to the department ~~of~~ ***prior to*** such transport and disposal.

(b) Prior to transport, the person subject to (a), above, shall provide the following information to the department:

- (1) The person's name, mailing address, and daytime telephone number, and, if available, an e-mail address;
- (2) The O/O's name and mailing address;
- (3) The physical address where the ACM is located;
- (4) The date when the ACM will be picked up;
- (5) The name and physical address of the disposal site; and
- (6) The quantity(ies) of ACM to be disposed.

(c) Within 30 days after delivery to the disposal site, the person subject to (a), above, shall provide a copy of the waste shipment record to the department.

Env-A ~~1803~~***1804***.09 Notification Fees.

(a) The person providing written notification to the department shall send the fee specified in (c), below, as applicable, with the notification.

(b) Payment shall be in the form of cash, company check, certified check, or money order. A company check or certified check or money order shall be made payable to "Treasurer, State of New Hampshire".

(c) Notification fees shall be as follows:

- (1) For a notification of a major asbestos abatement project - class N, \$300;
- (2) For a notification of a major asbestos abatement project - class S, \$50;
- (3) For an annual notification pursuant to Env-A ~~1803~~***1804***.04, \$1,500; and
- (4) For a revised notification pursuant to Env-A ~~1803~~***1804***.07, \$25.

## PART Env-A 1805 WORK PRACTICE REQUIREMENTS

*Readopt Env-A 1805.01, eff. 10-21-08 (doc. #9298), to read as follows:*

Env-A 1805.01 Requirements for Major Asbestos Abatement Projects. Each O/O of a facility at which major asbestos abatement activity is or may be undertaken shall ensure compliance with this part.

*Readopt with amendment Env-A 1805.02 through Env-A 1805.04, eff. 10-21-08 (doc. #9298), to read as follows:*

Env-A 1805.02 Asbestos Abatement Project Personnel. The contractor(s) and personnel involved in a major asbestos abatement project shall be licensed and certified, respectively, in accordance with Env-A ~~1810~~ **1811**.

Env-A 1805.03 Records Maintained On-Site. The O/O shall maintain the records specified in Env-A ~~1804.02-1803~~ on-site.

Env-A 1805.04 Site Preparation. Prior to the start of the abatement, the O/O shall prepare each work area as follows:

(a) Post telephone numbers of the nearest emergency facilities ~~within 3 feet of the telephone nearest to~~ ***in a location that is visible from*** the work area;

~~(b)~~ ***(b)*** Turn off all HVAC systems in or passing through the work area, and take measures, ***such as taping over on/off switches***, to prevent accidental start-ups;

~~(c)~~ ***(b)*** Isolate contaminated areas from uncontaminated areas with air-tight barriers over all openings between the work area and uncontaminated areas, including but not limited to windows, doorways, elevator openings, corridor entrances, ventilation openings, drains, ducts, grills, grates, diffusers and skylights, but excluding the decontamination enclosure system doorways, using sheeting having a minimum thickness of 6 mil;

~~(d)~~ ***(e)*** Post warning signs at all entrances to the work area;

~~(e)~~ ***(f)*** Remove all ***uncontaminated*** movable objects from the work area;

~~(f)~~ ***(g)*** Clean or dispose of as asbestos waste all contaminated items ~~that are not~~ removed from the work area;

~~(g)~~ ***(h)*** Clean all non-movable objects in the work area, then cover with sheeting having a minimum thickness of 4 mil secured into place; ***and***

~~(h)~~ ***(i)*** Install sheeting as follows:

(1) Completely cover all uncontaminated floors, walls, and ceiling surfaces in the work area with sheeting as specified in (3) through (6), below, as applicable, sized and installed so as to minimize seams;

(2) ~~No~~ ***Do not locate*** sheeting seams ~~shall be located~~ at any floor/wall or ceiling/wall corners;

(3) ~~Cover the f~~ ***Cover the f*** Floor sheeting shall consist of ~~with~~ ***2*** layers of 6 mil sheeting; ***and*** ~~extending the sheeting~~ at least 12 inches up each wall;

(4) ~~Cover the w~~ ***Cover the w*** Walls sheeting shall consist of ~~with~~ ***one*** layer of 4 mil sheeting; ***and*** ~~extending the sheeting~~ at least 12 inches across the floor;

(5) ~~Cover the c~~ ***Cover the c*** Ceiling sheeting shall consist of ~~with~~ ***one*** layer of 4 mil sheeting; ***and*** ~~extending the sheeting~~ at least 12 inches down each wall; and

(6) ~~Sheeting for~~ ***Cover*** all intake and exhaust openings and any seams in ***all*** HVAC system components ~~shall be at least with 6 mil or thicker sheeting or with tape; and~~.

*{(h) moved, renumbered as (b), above}*

*Readopt with amendment Env-A 1805.05, eff. 10-18-14 (doc. #10695), to read as follows:*

Env-A 1805.05 Work Area Ventilation.



(a) The work area shall be served by a sufficient number of negative pressure ventilation units with HEPA filtration to provide one containment area air change every 15 minutes.

(b) The unit(s) shall be operated to maintain a static pressure differential of 0.02 inches water gauge from the time that barrier construction is completed through the time acceptable final clean air monitoring results are obtained.

(c) The negative pressure ventilation units shall exhaust filtered air to the outside of the facility wherever practical.

(d) If exhausted to interior spaces, the exhaust shall be monitored for fiber release by:

(1) Using a continuous, direct reading instrument equipped with a chart recorder located at the exhaust; or

(2) Taking daily air samples at the exhaust and having them analyzed, as described in Env-A 1805.09(e)-1809.03, as expeditiously as practical, but no more than 24 hours after sampling.

*Readopt with amendment Env-A 1805.06 through Env-A 1805.13, eff. 10-21-08 (doc. #9298), to read as follows:*

Env-A 1805.06 Worker Decontamination Enclosure System.

(a) Each asbestos abatement site shall have a worker decontamination enclosure system ***contiguous to the work area.***

(b) The worker decontamination enclosure systems shall consist of a clean room, shower room, and equipment room, separated from each other by doorways with at least 2 overlapping sheets.

(c) The shower room shall have running water that is at least 85° F or can be mixed at the tap to achieve 85° F.

(d) Shower waste water shall be collected and disposed of as asbestos waste or filtered through a 5 micron filter.

(e) Except for the doorways, the worker decontamination enclosure system shall be airtight.

(f) All entrances to and exits from the work area shall be through the decontamination enclosure system.

(g) Each worker exiting from the work area shall thoroughly shower so as to remove all asbestos fibers before entering the clean room.

(h) No asbestos-contaminated individual or item shall enter the clean room.

Env-A 1805.07 Asbestos Removal Procedures.

(a) All ~~RACM~~***ACM*** shall be adequately wetted before removal and maintained wet during and after removal so as to prevent the release of fibers until placed into leak-tight containers for disposal.

(b) All ~~RACM~~***ACM*** shall be carefully lowered to the ground or floor, not dropped or thrown.

(c) Structural members not previously stripped of ~~RACM~~***ACM*** shall be removed intact or in large sections whenever possible and carefully lowered to the floor.

(d) ~~RACM~~***ACM*** that is not associated with structural members shall be removed in small sections and not be allowed to accumulate on the floor.

(e) Following removal, the O/O shall perform cleanup procedures using repeated HEPA vacuuming and wet cleaning techniques until no visible residue is observed in the work area.

Env-A 1805.08 Disposal.

(a) After completing abatement work, the O/O shall:

(1) Except as provided in (b), below, remove ~~RACM-ACM~~ ***RACM-packaged ACM*** from the work site as soon as practicable, but in no event longer than 30 days following the completion of the abatement work; and

(2) Dispose of the ~~RACM-ACM~~ as specified in 40 CFR 61.150, as incorporated by reference with amendments in Env-A ~~1803~~***1808***.01; and Env-Sw 901.04.

(b) The O/O of an asbestos abatement project conducted under an annual notification filed pursuant to Env-A ~~1803~~***1804***.04 shall be exempt from the time limit specified in (a)(1), above, provided the O/O:

(1) Manages the ~~RACM-ACM~~ in accordance with Env-Sw 901; and

(2) Removes the ~~RACM-ACM~~ from the facility no later than 30 days after facility closure.

(c) Prior to delivering ~~RACM-ACM~~ to a transporter for disposal, the O/O shall:

(1) Adequately wet all loose ~~RACM-ACM~~ and place it into water-tight containers or double impermeable bags of at least 6 mil thickness each and seal the containers or bags, as applicable;

(2) Wrap large components or structural members that were removed intact air-tight in 2 layers of 6 mil sheeting and seal the sheeting;

(3) Label all containers, including bags, drums, and wrapped components, in accordance with 40 CFR 61.150(a); and

(4) Complete a ~~manifest~~ ***waste shipment record*** pursuant to 40 CFR 61.150(d).

(d) Within 30 days after delivery of ~~RACM-ACM~~ to the disposal site, the O/O shall provide a copy of the waste shipment record to the department.

Env-A 1805.09 Clearance Testing.

(a) At the completion of an asbestos abatement project; but prior to dismantling the containment and decontamination system, the O/O shall obtain the services of an independent industrial hygienist to conduct clearance air sampling.

(b) Prior to clearance sampling, the independent industrial hygienist shall conduct a thorough visual inspection of the work area for the presence of visible residue.

(c) If visible residue is found by the independent industrial hygienist, the O/O shall continue cleaning the work area ***as specified*** in ~~accordance with~~ Env-A 1805.07(e).

(d) After determining that no visible residue remains in the work area, the independent industrial hygienist shall take sufficient volumes of air for clearance sampling to accurately determine, to a 95 percent probability, fiber concentrations to ~~0.01~~ ***0.010*** fibers/cubic centimeter (f/cc) of air.

(e) Clearance air sampling shall be done no sooner than the earlier of 6 hours from the time the cleanup procedures of wet wiping and HEPA vacuuming are completed, or such time as all surfaces in the work area have dried. If all work area surfaces are dry at the completion of the cleanup procedures, no waiting period shall be required prior to beginning air sampling.

(f) Aggressive sampling shall be used:

(1) To ensure that any fibers deposited on surfaces within the work area are included in the sample; and

(2) For all clearance sampling in schools and school buildings.

(g) Except for schools and school buildings, non-aggressive sampling shall be used in areas where all uncontaminated wall, ceiling, and floor surfaces in the work area are not covered with sheeting.

(h) The containment and worker decontamination system shall not be dismantled until clearance air sampling demonstrates the presence of no more than ~~0.01~~***0.010*** fibers of length greater than 5 microns per cubic centimeter of air as determined by phase contrast optical microscopy, performed as described in “Asbestos and Other Fibers by PCM: Method 7400, Issue 2”, National Institute of Occupational Safety and Health (NIOSH) Manual of Analytical Methods (NMAM), Fourth Edition, 8/15/94, ***available as noted in Appendix B.***

(i) The industrial hygienist shall provide copies of the clearance air sampling results to the department within 30 days of the date of clearance air sampling.

Env-A 1805.10 Specific Requirements for Demolition.

(a) Prior to any demolition, ***including*** by intentional burning, of a structure or portion of a structure, all ~~RACM and Category I and Category II nonfriable~~ ACM shall be removed in accordance with the applicable provisions of this chapter, ***subject to (b) below.***

~~(b) Prior to any demolition, other than demolition by intentional burning, of a structure or portion of a structure that contains RACM, all RACM shall be removed in accordance with the applicable provisions of this chapter, subject to (c), below.~~

~~(eb)~~ For clearance air sampling as described in Env-A 1805.09, an acceptable result shall be 0.10 fibers of length greater than 5 microns per cubic centimeter of air as determined by phase contrast optical microscopy, performed as described in “Asbestos and Other Fibers by PCM: Method 7400, Issue 2”, NIOSH Manual of Analytical Methods (NMAM), Fourth Edition, 8/15/94, ***available as noted in Appendix B.***

Env-A 1805.11 Specific Requirements for Enclosure of RACM. When an O/O chooses to enclose RACM, the O/O shall:

(a) Notify and pay the fee in accordance with Env-A 1803 ~~4.09~~***4.09***(c)(1) or (2), as applicable;

(b) Prior to enclosure, remove loose and hanging RACM in accordance with Env-A 1805;

(c) Ensure that enclosures are airtight and of permanent construction, ~~so~~ ***such*** that the area being enclosed is inaccessible;

(d) Prior to commencing work, wet all RACM that has the potential to be disturbed during the installation of hangers, brackets, or other portions of the enclosure; and

(e) Designate enclosures for RACM by signs, labels, color coding, or some other readily visible mechanism on the enclosure to warn individuals who may be required to disturb the enclosure.

Env-A 1805.12 Specific Requirements for Encapsulation of RACM. When an O/O chooses to encapsulate RACM, the O/O shall:

(a) Notify and pay the fee in accordance with Env-A ~~1803-1804~~***1804***.09(c)(1) or (2), as applicable;

(b) Ensure that filler material applied to gaps in existing material contains no asbestos, adheres well to the substrate, and provides a suitable base for the encapsulant;

(c) Prior to encapsulation, remove loose and hanging RACM in accordance with ***all applicable provisions in*** Env-A 1805;

(d) Apply encapsulants using only low pressure airless spray equipment with nozzle pressure and tip size set according to the manufacturer's recommendations; and

(e) Specifically designate encapsulated RACM by signs, labels, color coding, or some other readily visible mechanism on the encapsulated RACM to warn individuals who may in the future be required to disturb the material.

Env-A 1805.13 Minor Asbestos Abatement Projects.

(a) Personnel involved in minor asbestos abatement projects shall be certified in accordance with this chapter, unless exempt under the provisions of Env-A ~~1810~~***1811***.02.

(b) Any person performing a minor asbestos abatement project shall take the following precautions at a minimum to prevent the release of asbestos fibers into the ambient air:

(1) Barriers including glovebags shall be installed for minor asbestos abatement projects to assure that fibers released during abatement activities are contained within the work area;

(2) All RACM shall be wetted prior to being disturbed, and shall be kept wet until it is containerized;

(3) HEPA vacuum equipment and wet cleaning techniques shall be used to clean up the work area following abatement until no visible residue is observed;

(4) Prior to disposal, RACM shall be containerized in accordance with Env-A 1805.08 in air-tight containers and labeled in accordance with 40 CFR 61.150(a); and

(5) The containerized waste shall be transported and disposed of in accordance with Env-Sw 901.

*Adopt Env-A 1806 to read as follows:*

***PART Env-A 1806 ALTERNATIVE REQUIREMENTS FOR SPECIFIC ACM***

***Env-A 1806.01 Applicability. Facility operators performing asbestos abatement activities involving vinyl asbestos floor tile, vinyl asbestos floor sheeting, asbestos roofing materials, asbestos siding and other preformed cementitious asbestos materials may comply with this part in lieu of complying with Env-A 1805 in its entirety.***

***Env-A 1806.02 Abatement of Asbestos-containing Floor Coverings and Mastic.***

***(a) Flooring shall not be sawn, ground or abraded and sheet vinyl flooring shall not be separated from the backing.***

***(b) Env-A 1805.02 through Env-A 1805.06 and Env-A 1805.08 shall apply, except:***

***(1) Ceiling sheeting shall not be required; and***

***(2) Wall sheeting shall be 4 mil or thicker and cover the bottom 4 feet of each wall.***

***Env-A 1806.03 Abatement of Asbestos-containing Asphalt Roofing Materials.***

***(a) Whenever ACM is to be removed from a sloping roof, the surrounding ground shall first be protected with poly drop cloths such that no ACM can come into contact with the ground.***

***(b) Whenever ACM is sanded, sawn, cut, drilled or otherwise treated in a manner that would create a fine dust or particles, the contractor and workers shall be licensed and certified in accordance with Env-A 1811 and one of the following shall apply:***

***(1) A HEPA-filtered tool shall be used to prevent generation of visible emissions; or***

***(2) Water shall be applied at the point of abrasion with an airless sprayer and in sufficient volume so that no visible emissions result from the operation other than water spray.***

***(c) All ACM waste shall be packaged, labelled, and disposed of in accordance with Env-A 1805.08.***

***Env-A 1806.04 Abatement of Asbestos-containing Cementitious Roofing or Siding Materials.***

***(a) Whenever cementitious ACM is to be removed from the side or roof of a building, the surrounding ground shall first be protected with poly drop cloths such that no ACM can come into contact with the ground.***

***(b) All ACM shall be adequately wetted before removal and maintained wet during and after removal so as to prevent the release of fibers until placed into leak-tight containers for disposal.***

***(c) Cementitious ACM shall be removed intact, to the extent possible, by prying out or cutting fasteners.***

***(d) Cementitious ACM shall be carefully lowered to the ground, not dropped or thrown.***

***(e) All ACM waste shall be packaged, labelled, and disposed of in accordance with Env-A 1805.08.***

*Readopt with amendment Env-A 1806, eff. 10-21-08 (doc. #9298), and renumber as Env-A 1807, to read as follows:*

***PART Env-A ~~1806~~-1807 ALTERNATIVE WORK PRACTICES******Env-A ~~1806~~-1807.01 Glovebags.***

***(a) Glovebags may be used only in accordance with the provisions of this part.***

***(b) Glovebags shall only be used under such conditions that their use will not threaten any release of fibers at locations outside of the glovebag.***

***(c) Env-A 1805.04 (a) through (g), Env-A 1805.05, and Env-A 1805.06 shall apply to glovebag procedures.***

***(~~d~~) Glovebag procedures shall conform to the requirements of 29 CFR 1926.1101(g)(5)(ii)(B)(1) through (8), July 1, ~~2007~~-2014.***

***(~~e~~) Following completion of a glovebag procedure or series of glovebag procedures in a contiguous area, clearance ***inspection and*** air sampling shall be conducted in accordance with the requirements of Env-A 1805.09.***

***Env-A ~~1806~~-1807.02 Other Alternative Procedures.***

***(a) Any request for an alternative procedure to an asbestos abatement requirement shall be submitted to both EPA Region I and the department.***

(b) The department shall approve an alternative procedure for control of emissions from an asbestos abatement activity only if:

- (1) EPA approves the request or notifies the department in writing that the requested procedure need not be approved by EPA; and
- (2) The O/O satisfies (c) through (e), below.

(c) The O/O shall submit to the department a written request for use of an alternative procedure at least 10 days in advance of the proposed starting date for such abatement. Requests shall include all information identified at Env-A ~~4803-1804~~.06, and include such additional information as is necessary to identify the unique aspects of the project which led to the request.

(d) The department shall approve the alternative procedure if:

- (1) The alternative procedure provides an equivalent or greater measure of control of asbestos fiber release than the procedure required by these rules; or
- (2) Using the alternative procedure creates a lower potential hazard to life, health, and property than using the procedures required by these rules.

(e) No work using an alternative procedure shall begin without the written approval or abstention of EPA Region I and the department.

*Readopt with amendment Env-A 1807, eff. 10-21-08 (doc. #9298), and renumber as Env-A 1808, to read as follows:*

#### PART Env-A ~~4807-1808~~ APPLICABLE FEDERAL REGULATIONS

Env-A ~~4807-1808~~.01 National Emission Standards For Asbestos. Under the authority of RSA 141-E:4, XVI(c), the O/O of a facility subject to this chapter shall comply with the provisions of 40 CFR 61, subpart M, as in effect on July 1, ~~2007-2015~~ except for:

- (a) The definition of “facility” in 40 CFR 61.141; and
- (b) The provisions of 40 CFR 61.145(c)(1)(i), 61.145(c)(1)(ii), 61.145(c)(1)(iv), 61.149(c)(2), 61.150(a)(4), 61.150(a)(5), 61.150(b)(3), 61.151 with respect to disposal sites not operated after July 9, 1981, 61.151(c), 61.152(b)(3), 61.154(c), 61.154(d), 61.155(a), and 61.157.

Env-A ~~4807-1808~~.02 AHERA Regulations. An individual who engages in any school asbestos abatement planning activity or a contractor who engages in an asbestos abatement project in a school shall comply with the provisions of 40 CFR 763, subpart E, as in effect on July 1, ~~2007-2015~~, except for the provisions of 40 CFR 763.97 and 763.98.

*Readopt with amendment Env-A 1808, eff. 10-21-08 (doc. #9298), and renumber as Env-A 1809, to read as follows:*

#### PART Env-A ~~4808-1809~~ ASBESTOS ANALYTICAL REQUIREMENTS

Env-A ~~4808-1809~~.01 Applicability. This part shall apply to the analysis of all asbestos samples obtained by the department pursuant to compliance inspections.

Env-A ~~4808-1809~~.02 Analytical Proficiency. The following criteria shall apply to the analysis of asbestos:

- (a) For air sampling proficiency standards, the laboratory analysis of air samples shall be performed by either:



- (1) A laboratory presently accredited for asbestos analysis by the American Industrial Hygiene Association (AIHA);
  - (2) An analyst presently listed in the AIHA Asbestos Analysis Registry; or
  - (3) A person who has successfully completed the NIOSH Course #582 "Sampling and Evaluating Airborne Asbestos" and whose laboratory presently shows evidence of a proficient rating in the AIHA Proficiency Analytical Testing Program (PAT Program);
- (b) For bulk sampling proficiency standards, the laboratory shall show evidence of a current proficiency rating in the National Volunteer Laboratory Accreditation Program (NVLAP), such as being listed in the most recent copy of the Federal Register containing the EPA's Accredited Laboratories AHERA list for Accredited Polarized Light Microscopy Laboratories; and
- (c) The analysis of bulk samples shall be performed by, or under the supervision of, an analyst who has successfully completed an approved course of training in the techniques and procedures for identification of asbestos in bulk samples such as the McCrone Institute Bulk Analysis course.

Env-A ~~1808-1809~~.03 Analytical Techniques.

- (a) Air samples shall be submitted for analysis to a laboratory that uses phase contrast microscopy (PCM) for the analysis of air samples for asbestos content unless accredited by the National Institute of Standards and Technology (NIST) for transmission electron microscopy (TEM), in which case the laboratory may analyze air samples using TEM.
- (b) Analytical procedures for PCM shall be in accordance with NIOSH Method 7400, Issue 2, entitled "Fibers" published in the NIOSH Manual of Analytical Methods, 4<sup>th</sup> Edition, Second Supplement, August 1994, ***available as noted in Appendix B***. Air volumes sampled shall be sufficient to accurately determine, to a 95 percent probability, fiber concentrations of 0.01 fibers/cubic centimeters of air (f/cc).
- (c) Analytical procedures for TEM shall be as stated in 40 CFR Part 763, subpart E, appendix A: "Mandatory and Non-Mandatory" or as defined and accepted by the NIST for TEM accreditation.
- (d) Analytical procedures for PLM shall be as stated in 40 CFR Part 763, subpart F, appendix A: "Interim Method of the Determination of Asbestos in Bulk Insulation Samples" or as defined and accepted by the NIST for PLM accreditation.

*Renumber the part heading for Env-A 1809 as Env-A 1810, to read as follows:*

PART Env-A ~~1809-1810~~ APPROVAL OF ASBESTOS TRAINING PROVIDERS AND COURSES;  
OBLIGATIONS OF TRAINING PROVIDERS

*Readopt with amendment Env-A 1809.01 through Env-A 1809.05, eff. 10-21-08 (doc. #9298), and renumber as Env-A 1810.01 through Env-A 1810.05, to read as follows:*

Env-A ~~1809-1810~~.01 Training Approval. All training courses that are used to fulfill licensure and certification requirements for asbestos abatement and school asbestos abatement planning shall be approved by:

- (a) The EPA;
- (b) An EPA-approved state accreditation program; or
- (c) The department, pursuant to Env-A ~~1809-1810~~.02 and Env-A ~~1809-1810~~.03.

Env-A ~~1809-1810~~.02 Request for Approval of Training Course. Any training provider seeking approval of one or more training course(s) shall submit the following in writing to the department for each proposed course:

- (a) The name(s) of the training provider as shown on the approval issued pursuant to Env-A ~~1809~~ ***1810.04***;
- (b) The name of the specific course for which approval is sought;
- (c) Whether the course is intended for initial certification or as a refresher;
- (d) An outline of the training course that shows the topics to be covered and the amount of time to be given to each topic;
- (e) A copy of the applicant's instruction manual for the training course, and all printed material to be distributed in each course;
- (f) A description of the teaching methods to be employed, including a description of any audio-visual aids to be used;
- (g) A description of the hands-on facility to be used, including the protocol for instruction, the number of students to be accommodated, and the number of instructors;
- (h) A description of the equipment that will be used in both classroom lectures and in hands-on training;
- (i) The name and qualifications of each individual who will provide the training for the course, including education, training, and experience;
- (j) An example of the written examination to be given in the course;
- (k) A copy of the certificate of completion to be given to successful course participants; and
- (l) Any additional information that may be needed to demonstrate that the proposed course will meet the criteria for approval specified in Env-A ~~1809~~ ***1810.03***.

Env-A ~~1809~~ ***1810.03*** Criteria for Approval of Training Courses. The department shall approve a training course for which an application is submitted pursuant to Env-A ~~1809~~ ***1810.02*** if all of the following criteria are met:

- (a) The training course will be conducted by training provider approved pursuant to Env-A ~~1809~~ ***1810.05***;
- (b) For a training course required for certification, the course is specific to the discipline and meets the requirements for that discipline as set forth in the model accreditation plan (MAP);
- (c) The topic or subject of instruction will be presented through a combination of lectures, demonstrations, and field trips or hands-on practice;
- (d) For a course requiring hands-on training, the course will:
  - (1) Be presented in an environment suitable to permit participants to have actual experience performing tasks associated with asbestos abatement;
  - (2) Not be replaced by demonstrations not involving individual student participation; and
  - (3) Maintain a student to instructor ratio of not greater than 10 to one;
- (e) The training course will meet the following time restrictions:
  - (1) The total hours required by AHERA shall be completed within a 2-week time frame;
  - (2) Attendees shall not be required to attend more than 8 hours of actual training in a single 24-hour period; and

(3) Evening instruction shall not exceed a maximum of 4 hours in any single session.

(f) For an asbestos training course outlined in the MAP, no fewer than 2 qualified instructors will provide the training, except that one instructor may conduct courses for asbestos abatement workers provided that the instructor is both field-experienced and qualified;

(g) For a training course for asbestos abatement workers, asbestos abatement contractors and supervisors, asbestos inspectors, asbestos management planners, or asbestos project designers, the course will meet those requirements specific to each discipline as set forth in the MAP;

(h) Successful completion of a course for asbestos abatement workers, asbestos abatement inspectors, and asbestos management planners will be demonstrated by achieving a score of at least 70 percent on a written examination consisting of 50 multiple choice questions;

(i) Successful completion of a course for asbestos abatement contractors and supervisors and for asbestos project designers will be demonstrated by achieving a score of at least 70 percent on a written examination consisting of 100 multiple choice questions; and

(j) If the proposed course is a refresher training course, the course will:

(1) Meet the applicable requirements as set forth in the MAP;

(2) Be specific to only one AHERA discipline; and

(3) Require successful completion of the course to be demonstrated by achieving a score of at least 70 percent on a written examination consisting of 25 multiple choice questions.

Env-A ~~4809-1810~~.04 Request for Approval of Training Providers. Any person who wishes to obtain department approval as a training provider shall submit the following in writing to the department for each proposed course:

(a) The name, mailing address, and daytime telephone number of the applicant and a list of all names under which the applicant conducts or intends to conduct training;

(b) A list of each asbestos training course that the applicant intends to offer, including both initial and refresher training courses;

(c) A list of all states and federal agencies that have certified, accredited, or given other forms of approval to the applicant to provide asbestos training, including:

(1) The name, mailing address, and daytime telephone number of each department or agency giving such approval;

(2) The name and daytime telephone number of an individual at each department or agency who can be contacted regarding the approval; and

(3) Copies of all such written approvals;

(d) A list of any outstanding state or federal enforcement actions pending against the applicant with regard to asbestos abatement training or work;

(e) If there are any outstanding state or federal enforcement actions pending against the applicant with regard to asbestos abatement training or work, an explanation of the circumstances surrounding the actions which demonstrates that the applicant can be expected to adhere to applicable requirements if approved as a training provider pursuant to these rules;

(f) Documentation that the training provider meets the criteria specified in Env-A ~~4809-1810~~.05(d) ~~and (e)~~; and

- (g) A statement signed by a responsible person certifying that:
- (1) The applicant has read, and understands, the New Hampshire asbestos management rules;
  - (2) The application was prepared in conformity with the rules for asbestos control; ~~and~~
  - (3) All information contained in the application, including any supplements attached, is true, ~~and~~ correct, ***and not misleading*** to the best of ~~their~~ ***the applicant's*** knowledge and belief; ~~and~~
  - (4) ***The applicant understands that the applicant is subject to the penalties in RSA 641, Falsification in Official Matters, if any of the information is not true, not correct, or is misleading.***

Env-A ~~1809-1810.05~~ Criteria for Approval of Training Providers. The department shall approve a training provider for which an application is submitted pursuant to Env-A ~~1809-1810.04~~ if all of the following criteria are met:

- (a) All of the information required by Env-A ~~1809-1810.04~~ has been submitted;
  - (b) The applicant has signed the certification required by Env-A ~~1809-1810.04~~(g);
  - (c) If information is submitted in response to Env-A ~~1809-1810.04~~(e), the department makes a determination that the applicant can be expected to adhere to applicable requirements if approved as a training provider pursuant to these rules;
  - (d) The applicant issues or will issue a uniquely numbered certificate to each student who successfully completes an initial or refresher course; and
  - (e) The applicant includes or will include the following information on the numbered certificates ~~which it issues~~:
- (1) Name and date of birth of the student;
  - (2) The course completed;
  - (3) The date(s) of the course and the examination;
  - (4) The name, mailing address, and daytime telephone number of the training provider;
  - (5) A statement that the student has completed the requisite training for asbestos accreditation under TSCA Title II;
  - (6) An expiration date that is one year from the date on which the student is issued said certificate; and
  - (7) The address of the location where the course was given.

*Readopt with amendment Env-A 1809.06, eff. 10-21-08 (doc. #9298), as amended eff. 10-18-14 (doc. #10695), and renumber as Env-A 1810.06, to read as follows:*

Env-A ~~1809-1810.06~~ Training Provider Responsibilities. Each training provider approved pursuant to Env-A ~~1809-1810.01~~ shall:

- (a) Comply with the recordkeeping requirements for training providers as set forth in the MAP;
- (b) Retain records of the following:
  - (1) The title of each initial and refresher course taught;
  - (2) The date(s) on which the course was provided; and

- (3) The name, address, and date of birth of each student who successfully completed the course;
- (c) Notify the department in writing within 30 days following any change in course content, training aids used, facility used, or other matters that would alter the instruction from that described in the application. Minor changes in agenda, such as guest speakers, if otherwise qualified, and course schedule shall be exempt from this notification requirement;
- (d) Distribute and use as part of the course content any information or training aids furnished by the department which reflect changes in federal regulations or state rules;
- (e) Allow a representative of the department to audit courses and review examinations without cost to the department;
- (f) Provide written notification to the department at least 10 working days prior to providing any asbestos training courses, including:
  - (1) Name of training provider;
  - (2) Course(s) to be given; and
  - (3) Location and date(s) of course(s);
- (g) Make the records retained in accordance with ~~Env-A 1809.03~~ ***(b), above***, available to the department upon request; and
- (h) Within 20 days of the conclusion of any approved training, submit a course roster to the department noting:
  - (1) Name and date(s) of the course; and
  - (2) The name, date of birth, and exam grade for each attendee.

*Readopt with amendment Env-A 1809.07 through Env-A 1809.10, eff. 10-21-08 (doc. #9298), and renumber as Env-A 1810.07 through Env-A 1810.10, to read as follows:*

~~Env-A 1809-~~***1810.07*** Application Processing.

- (a) The department shall process applications in accordance with RSA 541-A:29.
- (b) The department shall deny any application that:
  - (1) Does not include the information required by Env-A ~~1809~~***1810***.02 and Env-A ~~1809~~***1810***.03; or
  - (2) Contains false or ~~fraudulent~~ ***misleading material*** information.
- (c) The department shall notify the applicant of its decision in writing. If the application is denied, the notice shall specify the reason(s) for denial and be sent to the applicant by certified mail.
- (d) If the applicant wishes to appeal the decision, the applicant shall file such appeal following the procedures set forth in Env-A ~~1809-~~***1810***.10.

~~Env-A 1809-~~***1810.08*** Duration and Renewal of Training Provider Approvals.

- (a) Training provider approval shall be effective for one year from the date of issuance as indicated on the written approval.
- (b) If the training provider wishes to renew the approval, the training provider shall:

(1) Submit a completed application for renewal, no later than 30 days prior to the expiration date of the current approval, including:

- a. Information as set forth in Env-A ~~1809-1810.02~~(i) and Env-A ~~1809-1810.04~~(a), (b), (d), and (g), without reference to previously submitted material;
- b. Information as set forth in Env-A ~~1809-1810.02~~(d), (e), (f), (g), (h), (j), and (k) and Env-A ~~1809-1810.04~~(c), that has changed from the original application; and
- c. Information as set forth in Env-A ~~1809-1810.02~~(d), (e), (f), (g), (h), (i), (j), and (k) and Env-A ~~1809-1810.04~~(a), (b), (c), (d), and (g) for any new training courses for which the applicant requests approval and for which approval was not requested in the original application;

(2) Attach any additional information and documentation required by this chapter, including a list of the type of asbestos training courses offered in the past year with the number of students that successfully completed the courses; and

(3) Apply for renewal no later than 3 years after the expiration date of the previous approval.

(c) The department shall not accept ~~a~~ ***renewal*** application ~~received~~ from a previously-approved training provider whose approval expired more than 3 years prior to the date of the renewal application, but shall inform the person that if approval is desired, a new application shall be submitted pursuant to Env-A ~~1809-1810.02~~.

Env-A ~~1809-1810.09~~ Suspension, Revocation, or Refusal to Renew Approval as a Training Provider.

(a) If the department obtains credible information indicating that one or more reasons to suspend or revoke a training provider approval as specified in (i), below, exists, the department shall notify the training provider in writing of:

- (1) The department's intended action;
- (2) The reason(s) for the intended action; and
- (3) The date by which the training provider shall file a written request for an adjudicative hearing if the training provider wishes to contest the proposed action, which date shall be 15 working days from the date of the department's notice.

(b) If the department receives a written request for an adjudicative hearing in accordance with (a)(3), above, the department shall proceed in accordance with RSA 541-A:31 and Env-C 200 as applicable to adjudicative proceedings.

(c) If the department does not receive a written request for an adjudicative hearing in accordance with (a)(3), above, the approval shall be deemed suspended or revoked, as specified in the notice issued pursuant to (a), above, as of the 16<sup>th</sup> working day from the date of the department's notice.

(d) The department shall suspend a training provider approval if the department determines that one or more reason(s) to suspend or revoke a training provider approval exists but that:

- (1) The training provider did not act with intent to deceive; and
- (2) The deficiency(ies) can be corrected so as to conform to applicable requirements.

(e) If the department suspends a training provider approval, the department shall:

- (1) Notify the training provider in writing of the specific deficiency(ies);



- (2) Specify a reasonable time to correct the deficiency(ies), which shall be determined based on the number and nature of the deficiency(ies); and
  - (3) Inform the training provider in the written notice that if the deficiencies are not corrected within the specified time, the approval shall be deemed revoked.
  - (f) The department shall revoke a training provider approval if the department determines that one or more reason(s) to suspend or revoke a training provider approval exists and that:
    - (1) The training provider acted with intent to deceive; or
    - (2) The deficiency(ies) cannot be corrected so as to conform to applicable requirements.
  - (g) If the department revokes a training provider approval, the department shall notify the training provider in writing of the revocation and the reason(s) therefor.
  - (h) If the department obtains credible information indicating that a reason exists to suspend or revoke a training provider approval as specified in (i), below, while an application for renewal of a training provider approval is pending, the department shall inform the training provider of the information and offer an opportunity for the training provider to respond to the information prior to a decision being made on the application for renewal.
  - (i) A training provider approval shall be suspended or revoked if:
    - (1) The training provider is not conducting training that meets the requirements of Env-A ~~1809~~ ***1810.02*** or Env-A ~~1809~~ ***1810.03***; or
    - (2) The training provider has failed to comply with Env-A ~~1809~~ ***1810.06***.
- Env-A ~~1809~~ ***1810.10*** Appeal. A training provider aggrieved by a department decision made pursuant to Env-A ~~1809~~ ***1810.09*** who wishes to appeal the decision shall appeal to the air resources council in accordance with ***RSA 21-O:14*** and the rules adopted by that council, ***currently*** Env-AC 200.

*Readopt with amendment Env-A 1810, eff. 10-21-08 (doc. #9298), and renumber as Env-A 1811, to read as follows:*

PART Env-A ~~1810~~ ***1811*** LICENSING AND CERTIFICATION FOR ASBESTOS ABATEMENT AND SCHOOL ASBESTOS ABATEMENT PLANNING

Env-A ~~1810~~ ***1811.01*** Applicability.

- (a) Pursuant to RSA 141-E:10 and RSA 141-E:11, the rules in this part shall apply to any contractor, employer, or individual that engages in any asbestos abatement or school asbestos abatement planning activities.
- (b) Pursuant to the AHERA regulations promulgated by EPA, individuals who conduct asbestos inspections of schools, or provide services as an asbestos management planner or project designer to schools, shall apply to the department for certification as either an asbestos inspector, asbestos management planner, or as an asbestos project designer.
- (c) Each individual to whom a certification has been issued pursuant to this part shall maintain a current training certificate while the certification is in effect.
- (d) Each individual performing work at an asbestos abatement project in New Hampshire, except as exempted under Env-A ~~1810~~ ***1811.02***, shall have in his or her possession at the work site the certification issued by the department and the initial and current training certificates issued to that individual.

Env-A ~~1810~~ ***1811.02*** Exemptions.

(a) Any individual, other than a maintenance worker, who performs only minor asbestos abatement projects as defined in Env-A 1802:44 shall be exempt from the requirement to obtain an entity license in accordance with Env-A ~~1810-1811~~.12, provided such individual holds a valid asbestos abatement worker or supervisor certificate issued pursuant to Env-A ~~1810-1811~~.13 or Env-A ~~1810-1811~~.14 and complies with Env-A 1805.07 and 1805.08(a) and (b).

(b) Any individual working only as an asbestos inspector, asbestos management planner, asbestos abatement project designer, or a combination of these, shall be exempt from the licensing requirements of Env-A ~~1810-1811~~.12 only if these services are not provided to schools.

(c) A maintenance worker who works in one or more buildings that contain asbestos-containing building materials shall be exempt from licensing and certification requirements for asbestos abatement site supervisors and workers provided that the maintenance worker:

- (1) Receives 16 hours of initial training as described in 40 CFR 763.92(a)(1) and (2);
- (2) Receives 4 hours of refresher training annually, which refresher courses shall include changes in federal and state regulations, developments in state-of-the-art procedures, and a review of key aspects of the initial training course; and
- (3) Performs only operations, maintenance, and repair activities that are of small-scale and short-duration as defined in Env-A 1802:54, ***provided that such projects shall be limited to not more than 3 linear feet of asbestos surface on pipes or ducts or 3 square feet of asbestos-containing building material on the surface of structures other than pipes or ducts.***

Env-A ~~1810-1811~~.03 Application Procedures.

(a) An individual seeking a certificate for asbestos abatement or school asbestos abatement planning or a person seeking a license for asbestos abatement shall submit a complete application in writing to the department at the following address:

NH DES  
Attn: Asbestos Licensing Program  
P.O. Box 95  
29 Hazen Drive  
Concord, NH 03302-0095

(b) A complete application shall include:

- (1) The information specified in Env-A ~~1810-1811~~.04 and Env-A ~~1810-1811~~.12 through Env-A ~~1810-1811~~.17, as applicable, on an application form obtained from the department;
- (2) The signature and certification required by Env-A ~~1810-05~~ ***1811.06***;
- (3) If the applicant is an individual, 2 clear, unmutilated, and unstapled 2-inch by 2-inch color photographs of the applicant with the name of the applicant printed legibly on the back of each photograph;
- (4) If the applicant is an individual, a copy of each dated training certificate which shows the applicant's training to be current at the time of application;
- (5) If the applicant is an entity, a copy of each training certificate held by each responsible person who fulfills the licensing requirement specified in Env-A ~~1810-1811~~.12(b)(4); and
- (6) The appropriate application fee as set forth in Env-A ~~1810-1811~~.08.

(c) An applicant may submit a combination application for asbestos inspector, asbestos management planner, and project designer, provided the applicant fulfills the application requirements for each discipline for which application is being made and applies for the certifications at the same time. Any applications received separately from the same applicant shall be treated as separate applications.

Env-A ~~1810~~***1811***.04 Information Required for All Applications. Each applicant shall supply the following information on the application form:

- (a) The name, mailing address, daytime telephone number, and date of birth of the applicant;
- (b) The name, mailing address, and daytime telephone number of the employer or principal place of business of the applicant;
- (c) The type of certification being requested;
- (d) A list of each agency that has certified the applicant, if any, and for each such agency, the following information:
  - (1) The name and address of the agency that issued the certification;
  - (2) The name, title, and daytime telephone number and, if available, an e-mail address, of the individual at the agency who can be contacted regarding the requirements that must be met in order to receive certification from that agency;
  - (3) The type of certification issued; and
  - (4) The dates of issuance and expiration of the certification; and
- (e) A list of all state or federal enforcement actions against the applicant with regard to asbestos abatement or planning work, if any, and for each action, the following information:
  - (1) The name and address of the agency that initiated the enforcement action;
  - (2) The date of the action;
  - (3) Whether the action has been resolved; and
  - (4) If the action has been resolved, when and how the action was resolved.

***Env-A 1811.05 Optional Information for Applications.***

***(a) Any applicant for an abatement entity license under this part that has business liability insurance or is bonded, or both, for work done under the license may submit proof of such insurance or bond, or both, with the application.***

***(b) If proof of insurance or bond, or both, is submitted with the application and the application is approved, the department shall note that the licensee has represented that work done under the license is covered by insurance or a bond, or both, as applicable.***

Env-A ~~1810.05~~***1811***.06 Signature and Certification Required for Applications.

- (a) The application shall be signed ***and dated*** by:
  - (1) The applicant, if the applicant is an individual; or
  - (2) A responsible person, if the applicant is an entity.
- (b) The signature of the applicant shall constitute certification that:

- (1) The applicant has read, and understands, the New Hampshire asbestos management rules;
- (2) The application has been prepared in conformity with this chapter; ~~and~~
- (3) All information contained in the application, including any supplements attached, is true, ***complete***, and ~~correct~~ ***not misleading*** to the best of the knowledge and belief of the ~~signer~~ ***signer***; ***and***
- (4) ***The applicant understands that the applicant is subject to the penalties in RSA 641, Falsification in Official Matters, if any material information is untrue, incomplete, or misleading.***

Env-A ~~1810.06-1811.07~~ ***1811.07*** Requests for Replacement Certificates.

(a) The department shall provide a replacement certificate for a certificate that has been lost, destroyed, or stolen, provided the certificate holder submits a request that is:

- (1) In writing;
- (2) Signed by the certificate holder;
- (3) Accompanied by 2 photographs as specified in Env-A ~~1810-1811.03(b)(3)~~; and
- (4) Accompanied by the appropriate application fee as set forth in Env-A ~~1810.08-1811.09(b)(9)~~.

(b) If the certificate holder finds a certificate that has been replaced pursuant to (a), above, the certificate holder shall return the original certificate to the department.

Env-A ~~1810.07-1811.08~~ ***1811.08*** Renewal Application Requirements.

(a) An application for renewal of a license or certification issued under this chapter shall be on a form obtained from the department and include:

- (1) All of the information required by Env-A ~~1810-1811.03~~ and Env-A ~~1810.12-1811.13~~, Env-A ~~1810.13-1811.14~~, Env-A ~~1810.14-1811.15~~, Env-A ~~1810.15-1811.16~~, Env-A ~~1810.16-1811.17~~, or Env-A ~~1810.17-1811.18~~, as applicable to the license or certification for which application is being made;
- (2) Documentation that annual refresher courses as required by this chapter are current at the time renewal is sought; and
- (3) The appropriate application fee as set forth in Env-A ~~1810.08-1811.09~~.

(b) Any person holding a license or certification that expired more than 3 years prior to the date a renewal application would be filed shall submit a new application pursuant to Env-A ~~1810-1811.04~~ in lieu of an application to renew.

(c) An applicant may apply for renewal of combination certifications only if the renewal application is for the same certifications the applicant originally received. An applicant requesting any changes in the certifications shall submit new applications pursuant to Env-A ~~1810-1811.03~~ in lieu of an application to renew.

(d) The department shall not accept an application for renewal of a license or certification more than 60 days before expiration of the current license or certification.

(e) Department action on the renewal application shall be in accordance with RSA 541-A:29.

Env-A ~~1810.08-1811.09~~ ***1811.09*** Application Fees.

(a) A non-refundable application fee in the form of cash, company check, certified check, or money order shall accompany each license or certification application. A company check, certified check, or money order shall be made payable to “Treasurer, State of New Hampshire”.

(b) The fees for each category of license and certification application shall be as follows:

(1) For an asbestos abatement entity, an initial licensing fee of \$1,000 and an annual renewal fee of \$750;

(2) For an asbestos abatement site supervisor, an initial certification fee of \$200 and an annual renewal fee of \$200;

(3) For an asbestos abatement worker, an initial certification fee of \$50 and an annual renewal fee of \$50;

(4) For an asbestos inspector, an initial certification fee of \$200 and an annual renewal fee of \$200;

(5) For an asbestos management planner, an initial certification fee of \$200 and an annual renewal fee of \$200 for each annual certification renewal;

(6) For an asbestos project designer, an initial certification fee of \$200 and an annual renewal fee of \$200;

(7) For initial combination certifications, an initial certification fee of \$200 for the first certification and \$50 for each additional certification;

(8) For annual renewals of identical combination certifications, \$200 for the first certification and \$50 for each additional certification; and

(9) For replacement of a lost or stolen certificate, a fee of \$20.

**Env-A ~~4810:09-1811.10~~ License and Certification Suspension, Denial, and Revocation.**

(a) If the department obtains credible information indicating that one or more reasons to suspend or revoke an asbestos abatement license or certification as specified in (i), below, exists, the department shall notify the holder of the license or certification in writing of:

(1) The department’s intended action;

(2) The reason(s) for the intended action; and

(3) The date by which the holder of the license or certification shall file a written request for an adjudicative hearing if the holder wishes to contest the proposed action, which date shall be 15 working days from the date of the department’s notice.

(b) If the department receives a written request for an adjudicative hearing in accordance with (a)(3), above, the department shall proceed in accordance with RSA 541-A:31 and Env-C 200 as applicable to adjudicative proceedings.

(c) If the department does not receive a written request for an adjudicative hearing in accordance with (a)(3), above, the license or certification shall be deemed suspended or revoked, as specified in the notice issued pursuant to (a), above, as of the 16<sup>th</sup> working day from the date of the department’s notice.

(d) The department shall suspend a license or certification if the department determines that one or more reason(s) to suspend or revoke a license or certification exists but that:

(1) The license or certification holder did not act with intent to deceive; and

- (2) The deficiency(ies) can be corrected so as to conform to applicable requirements.
- (e) If the department suspends a license or certification, the department shall:
  - (1) Notify the license or certification holder in writing of the specific deficiency(ies);
  - (2) Specify a reasonable time to correct the deficiency(ies), which shall be determined based on the number and nature of the deficiency(ies); and
  - (3) Inform the license or certification holder in the written notice that if the deficiencies are not corrected within the specified time, the approval shall be deemed revoked.
- (f) The department shall revoke a license or certification if the department determines that one or more reason(s) to suspend or revoke a license or certification exists and that:
  - (1) The license or certification holder acted with intent to deceive; or
  - (2) The deficiency(ies) cannot be corrected so as to conform to applicable requirements.
- (g) If the department revokes a license or certification, the department shall notify the license or certification holder in writing of the revocation and the reason(s) therefor.
- (h) If the department obtains credible information indicating that a reason exists to suspend or revoke a license or certification as specified in (i), below, while an application for renewal of a license or certification is pending, the department shall inform the license or certification holder of the information and offer an opportunity for the license or certification holder to respond to the information prior to a decision being made on the application for renewal.
- (i) A license or certification shall be denied, suspended or revoked if:
  - (1) The official record of the applicant, license holder, or certification holder contains violations of health and safety laws or regulations of the United States of America, or any state, which pose a threat to workers or the public;
  - (2) The applicant, license holder, or certification holder has submitted materially false or fraudulent information on an application;
  - (3) The applicant, license holder, or certification holder has failed to submit any required information or documentation with the application; or
  - (4) The applicant, license holder, or certification holder has demonstrated an inability to comply with any applicable federal or state standard for asbestos projects.

Env-A ~~1810.10-1811.11~~ ***Appeal***. A license or certification holder aggrieved by a department decision made pursuant to Env-A ~~1810.09-1811.10~~ who wishes to appeal the decision shall appeal to the air resources council in accordance with ***RSA 21-O:14*** the rules adopted by that council, ***currently*** Env-AC 200.

Env-A ~~1810.11-1811.12~~ ***Expiration***. Each license and certification issued under this chapter shall expire on the sooner of:

- (a) One year from the date of issuance, unless the license or certification is revoked prior to that date; or
- (b) The expiration of the training certificate filed with the initial or renewal application.

Env-A ~~1810.12-1811.13~~ ***Asbestos Abatement Entity Licensing Requirements***.



(a) An asbestos abatement entity shall not engage in any asbestos abatement project in New Hampshire without first:

(1) Being licensed to do so under the provisions of this chapter, unless it is exempt as specified in Env-A ~~1810.02~~***1811.02***; and

(2) Being registered and in good standing to do business as required by the secretary of state.

(b) The information required by Env-A ~~1810.03(b)(1)~~***1811.03(b)(1)*** from an applicant for an asbestos abatement entity license shall be as follows:

(1) A list of the names and addresses of the responsible person(s) of the applicant, as defined in Env-A 1802.50, and all individuals in management of the entity having primary responsibility for, and control over, the asbestos abatement work of the applicant;

(2) A list of all names, acronyms, or other identifiers by which the applicant is or has been known, or under which the applicant does or has done business;

(3) A list of all New Hampshire-certified asbestos abatement supervisors in the applicant's employ at the time of application; and

(4) Documentation that a responsible person, as defined in Env-A 1802.50, and currently employed by the entity, has attended and completed an approved training course for asbestos abatement contractors and supervisors as outlined in Env-A ~~1809.03(g)~~***1810.03(g)*** and (i) with a score of 70 percent or greater on the required written examination.

(c) Each asbestos abatement entity to which the department issues a license shall:

(1) Have a current copy of this chapter available at all active asbestos abatement worksites;

(2) Retain for 30 years all business and personnel records for each asbestos abatement project which has been performed by the entity in New Hampshire;

(3) Notify the department within 30 days of any change in personnel employed by the entity as New Hampshire-certified asbestos abatement supervisors;

(4) Ensure that ~~an~~ asbestos abatement supervisor who is certified in accordance with Env-A ~~1810.13~~***1811.14*** and whose training is current is present on-site whenever any asbestos abatement activity is being carried out as part of an asbestos abatement project in New Hampshire;

(5) Require all employees and contract workers engaged in asbestos abatement activities in New Hampshire to be certified in accordance with the provisions of this chapter and to have a current training certificate;

(6) Submit documentation of all employee training upon request of the department;

(7) Notify the department within 30 days of any change in the names or addresses of any responsible person(s) who work(s) for the licensed entity; and

(8) Maintain an accurate list of the name of each individual entering and exiting an established asbestos abatement containment area.

(d) The department shall renew an asbestos abatement entity license annually provided the license holder meets the license renewal requirements specified in Env-A ~~1810.07~~***1811.08***, and provides the following:

(1) A current list of New Hampshire-certified asbestos abatement supervisors in its employ;

(2) A list of projects performed by the licensed entity within the last 12 months, which includes the date of project, name of project owner, contact person, telephone number, and project supervisor(s); and

(3) Documentation of attendance and completion, by a responsible person as defined in Env-A 1802.50 and currently employed by the entity, of an annual refresher course for asbestos abatement contractors and supervisors as outlined in Env-A ~~1809-1810.03(j)~~, with a score of 70 percent or greater on the required written examination.

**Env-A ~~1810.13-1811.14~~ Asbestos Abatement Supervisor Certification Requirements.**

(a) Except as specified in Env-A ~~1810-1811.02~~, no individual shall engage in any on-site supervision of asbestos abatement workers during an asbestos abatement project in New Hampshire without first being certified as an asbestos abatement supervisor under the provisions of this chapter.

(b) The information required by Env-A ~~1810-1811.03(b)(1)~~ from an applicant for certification as an asbestos abatement supervisor shall include documentation that the applicant has:

(1) At least 12 months of asbestos abatement work experience; and

(2) Attended and completed an approved training course for asbestos abatement contractors and supervisors as outlined in Env-A ~~1809-1810.03(g)~~ and (i), with a score of 70 percent or greater on the required written examination.

(c) The department shall renew an asbestos abatement supervisor certification annually provided the certificate holder meets the requirements for certification renewal specified in Env-A ~~1810.07-1811.08~~, and provides the following:

(1) Documentation that the applicant has attended and completed an approved asbestos abatement supervisor annual review course as outlined in Env-A ~~1809-1810.03(j)~~, with a score of 70 percent or greater on the required written examination; and

(2) A list of projects supervised by the applicant within the last 12 months which includes the date of project, name of project owner, contact person, and telephone number.

**Env-A ~~1810.14-1811.15~~ Asbestos Abatement Worker Certification Requirements.**

(a) Except as exempted by Env-A ~~1810-1811.02~~, no individual shall perform as an asbestos abatement worker in New Hampshire without first being certified as an asbestos abatement worker under the provisions of this chapter.

(b) The information required by Env-A ~~1810-1811.03(b)(1)~~ from an applicant for certification as an asbestos abatement worker shall include documentation that the applicant has attended and completed an approved training course for asbestos abatement workers as outlined in Env-A ~~1809-1810.03(g)~~ and (h), with a score of 70 percent or greater on the required written examination.

(c) The department shall renew an asbestos worker certification annually provided the certificate holder:

(1) Meets the requirements for certification renewal specified in Env-A ~~1810.07-1811.08~~; and

(2) Provides documentation that the applicant has attended and completed an approved asbestos abatement worker annual review course as outlined in Env-A ~~1809-1810.03(j)~~, with a score of 70 percent or greater on the required written examination.

**Env-A ~~1810.15-1811.16~~ Asbestos Inspector Certification Requirements.**

(a) No individual shall perform any asbestos inspections of schools in New Hampshire without first being certified as an asbestos inspector under the provisions of this chapter.

(b) The information required by Env-A ~~1810-1811.03~~(b)(1) from an applicant for certification as an asbestos inspector shall include documentation that the applicant has:

(1) Attended and completed an initial approved training course for asbestos inspectors as outlined in Env-A ~~1809-1810.03~~(g) and (h), with a score of 70 percent or greater on the required written examination; and

(2) Had a minimum of 6 months experience in a comparable occupation or 2 months field experience under the supervision of a certified asbestos inspector or management planner.

(c) The department shall renew an asbestos inspector certification annually provided the certificate holder:

(1) Meets the requirements for certification renewal specified in Env-A ~~1810-07-1811.08~~; and

(2) Provides documentation that the applicant has attended and completed an approved asbestos abatement inspector review training course as outlined in Env-A ~~1809-1810.03~~(j), with a score of 70 percent or greater on the required written examination.

#### Env-A ~~1810-16-1811.17~~ Asbestos Management Planner Requirements.

(a) No individual shall function as an asbestos management planner for schools in New Hampshire without first being certified as an asbestos management planner under the provisions of this chapter.

(b) The information required by Env-A ~~1810-1811.03~~(b)(1) from an applicant for certification as an asbestos management planner shall include documentation that the applicant has:

(1) Attended and completed an approved asbestos management planning training course as outlined in Env-A ~~1809-1810.03~~(g) and (h), with a score of 70 percent or greater on the required written examination;

(2) A minimum of an associate degree or certificate of completion of a 2-year program in:

a. Project planning;

b. Management;

c. Environmental sciences;

d. Engineering;

e. Construction;

f. Architecture;

g. Industrial hygiene;

h. Occupational health, or

i. A related scientific field; and

(3) A minimum of 6 months experience in asbestos abatement, including experience in asbestos management, or a combination of education and experience equivalent to that minimum.

(c) The department shall renew an asbestos management planner certification annually provided the certificate holder:

(1) Meets the requirements for certification renewal specified in Env-A ~~1810-07-1811.08~~; and

- (2) Provides documentation that the applicant has attended and completed an approved asbestos management planner annual review training course as outlined in Env-A ~~1809-1810~~.03(j), with a score of 70 percent or greater on the required written examination.

***Env-A ~~1810.17-1811.18~~ Asbestos Project Designer Requirements.***

(a) No individual shall function as an asbestos project designer for schools in New Hampshire without first being certified as an asbestos project designer under the provisions of this chapter.

(b) The information required by Env-A ~~1810-1811~~.03(b)(1) from an applicant for certification as an asbestos project designer shall include documentation that the applicant has:

- (1) Attended and completed an approved asbestos abatement project designer course as outlined in Env-A ~~1809-1810~~.03(g) and (i), with a score of 70 percent or greater on the required written examination; and
- (2) One of the following combinations of education, training, and professional registration:
  - a. At least 12 months experience in asbestos abatement and a bachelor's degree in industrial hygiene, occupational health, environmental science, biological or physical science or a closely related field;
  - b. At least 12 months experience in asbestos abatement and registration as a registered architect or registered engineer; or
  - c. At least 2 years' experience in asbestos abatement including experience in asbestos abatement design.

(c) The department shall renew an asbestos abatement project designer certification annually provided the certificate holder:

- (1) Meets the requirements for certification renewal specified in Env-A ~~1810.07-1811.08~~; and
- (2) Provides documentation that the applicant has attended and completed an approved asbestos abatement project designer annual review training course as outlined in Env-A ~~1809-1810~~.03(j), with a score of 70 percent or greater on the written examination.

***Env-A ~~1810.18-1811.19~~ Reciprocity.***

(a) In accordance with RSA 141-E:11, asbestos abatement site supervisors, workers, inspectors, management planners, and project designers who have been granted certification by other states, or the EPA, shall be granted reciprocity by the state of New Hampshire, provided the certification requirements of said state(s) are substantially equivalent to the provisions of Env-A ~~1810-1811~~ for the individual discipline certification for which application is being made.

(b) The applicant for reciprocity shall:

- (1) Apply in accordance with Env-A ~~1810-1811~~.03; and
- (2) Fulfill all requirements as specified for the individual discipline certification for which application is being made.

(c) The department shall act on the application in accordance with RSA 541-A:29.

*Renumber the heading of Env-A 1811 as Env-A 1812, to read as follows:*

PART Env-A ~~1811~~***1812*** LICENSING ASBESTOS DISPOSAL SITE CONTRACTORS

*Readopt with amendment Env-A 1811.01 through Env-A 1811.03, eff. 10-21-08 (doc. #9298), and renumber as Env-A 1812.01 through Env-A 1812.03, to read as follows:*

Env-A ~~1811~~***1812***.01 Purpose. The purpose of this part is to implement the provisions of RSA 141-E:10 that require contractors, employers including self-employed individuals, and other individuals ~~that~~***who*** disturb asbestos at asbestos disposal sites to be licensed.

Env-A ~~1811~~***1812***.02 Applicability. Except as specified in Env-A ~~1811~~***1812***.03, any contractor, employer, or individual ~~that~~***who*** disturbs asbestos at an asbestos disposal site shall hold a valid license issued pursuant to this part.

Env-A ~~1811~~***1812***.03 Exemptions. The following individuals who disturb asbestos at asbestos disposal sites shall not be required to hold a license issued pursuant to this part:

(a) Individuals identified in RSA 141-E:10, I(a), namely, individuals certified pursuant to Env-A ~~1812~~***1813*** who perform the work for a contractor, employer, or other individual holding a valid license issued pursuant to this part;

(b) The owner of a single-family, owner-occupied property who, on said property only, personally performs the work, subject to the following conditions:

(1) The owner shall be trained and certified pursuant to Env-A ~~1812~~***1813***; and

(2) The work shall be done in a manner that prevents the release of asbestos fibers and in accordance with other federal, state, and local requirements, including the requirements identified in Env-A 1801.01(b);

(c) Entities and individuals undertaking a small-scale, short-duration disturbance of asbestos at an asbestos disposal site, subject to the following conditions:

(1) The entity or individual shall not be under license suspension or revocation pursuant to these rules;

(2) The quantity of material disturbed shall not exceed one cubic foot;

(3) The area of disturbance shall not exceed 3 square feet;

(4) The work shall be completed within 2 hours of being initiated;

(5) The entity or individual shall assure that the local health officer is notified before the work commences and that the local health officer and the department are provided access to the work site for inspection;

(6) The work shall be done in a manner that prevents the release of asbestos fibers and in accordance with other federal, state, and local requirements, including the requirements identified in Env-A 1801.01(b); and

(7) The work shall not be part of a larger project that is being segmented into small-scale, short-duration tasks; and

(d) Entities and individuals removing non-friable asbestos only from the ground surface to a container for disposal, subject to the following conditions:

(1) The activity shall not involve excavation below the ground surface;

(2) The activity shall not involve contact with friable asbestos or asbestos that exhibits friable characteristics; and

(3) The work shall be done in a manner that prevents the release of asbestos fibers and in accordance with other federal, state, and local requirements, including the requirements identified in Env-A 1801.01(b).

*Readopt with amendment Env-A 1811.04, eff. 10-21-08 (doc. #9298), and renumber as Env-A 1812.04 and Env-A 1812.05, to read as follows:*

Env-A ~~1811~~***1812.04 Applications for Licensure.*** ~~(a)~~ Each entity and individual seeking a license to disturb asbestos at an asbestos disposal site shall ~~apply in writing~~ ***submit a completed application*** to the department, on a form obtained from the department, ~~that:~~

***(a) Contains the information specified in Env-A 1812.05;***

*{(b) has been moved and renumbered as Env-A 1812.05}*

~~(eb)~~ ***The application shall be dated and signed and dated*** as specified in Env-A ~~1810.05~~ ***1811.06*** by the applicant and each responsible person who fulfills the licensing requirement specified in Env-A ~~1811.08~~ ***1812.11(b); and***

~~(ec)~~ ***An application fee of \$250 shall accompany each application for licensure.*** ~~Payment shall be in the form of cash, company check, certified check, or money order. A company check, certified check, or money order shall be made payable to "Treasurer, State of New Hampshire".~~

***Env-A 1812.05 Information Required for Licensure Applications.*** ~~(b)~~ ***The applicant shall provide the following information required by Env-A 1812.04(a) shall be as follows:***

~~(1a)~~ ***The applicant's name, mailing address, and daytime telephone number;***

~~(2b)~~ ***Whether the applicant is an individual or an entity, and, if an entity, whether the applicant is a corporation, partnership, political subdivision, or other kind of association or organization;***

~~(3c)~~ ***If the applicant is an individual, the applicant's date of birth;***

~~(4d)~~ ***If the applicant is an entity, the applicant's legal name, state of incorporation or formation, as applicable, and address of its principal place of business;***

~~(5e)~~ ***If the applicant is an entity, then for each of its responsible persons, the individual's:***

~~a.~~***(1) Name and title;***

~~b.~~***(2) Date of birth; and***

~~c.~~***(3) Address;***

~~(6f)~~ ***The name, title, mailing address, and daytime telephone number of the individual affiliated with and designated by the applicant to be contacted regarding the application;***

~~(7g)~~ ***The name of each responsible person who fulfills the licensing requirement specified in Env-A 1811***~~***1812.08(b), plus the following additional information about each such individual:***~~

~~a.~~***(1) Title and principal duties;***

~~b.~~***(2) Mailing address;***

~~c.~~***(3) Telephone number;***



~~d~~-(4) Date of birth; and

~~e~~-(5) Current certificate number;

(8*h*) Identification of all certifications and licenses, both past and present, issued to the applicant pursuant to He-P ~~5000~~ 5008, He-P ~~5011~~, Env-A ~~1810~~, or Env-A ~~1811~~ **1800**;

(9*i*) A list of all state or federal enforcement actions, both past and pending, against the applicant, including its responsible persons, with regard to environmental, health or safety activities, and the current status of each such enforcement action;

(10*j*) A list of all individuals currently employed or otherwise associated with the applicant who, under the authority of the applicant's license, if issued, will perform work relating to the disturbance of asbestos at asbestos disposal sites, including the following information about each individual:

~~a~~-(1) Name;

~~b~~-(2) Date of birth;

~~c~~-(3) Position title;

~~d~~-(4) Business mailing address;

~~e~~-(5) Business telephone number;

~~f~~-(6) If the individual is certified pursuant to Env-A ~~1812~~ **1813**, the certificate number and expiration date;

~~g~~-(7) If the individual is not certified pursuant to Env-A ~~1812~~ **1813**, the date application for certification was or will be made, and the date training in accordance with Env-A ~~1813~~ **1814** was or will be obtained; and

~~h~~-(8) Whether the individual meets the requirements of a competent person, as specified in 29 CFR 1926.1101, or an on-site supervisor, as specified in 29 CFR 1910.120, or both.

*{(c) has been moved and renumbered as 1812.04(b)}*

Adopt Env-A 1812.06 to read as follows:

***Env-A 1812.06 Optional Information for Licensure Applications.***

(a) ***Any applicant for licensure under this part that has business liability insurance or is bonded, or both, for work done under the license may submit proof of such insurance or bond, or both, with the application.***

(b) ***If proof of insurance or bond, or both, is submitted with the application and the application is approved, the department shall note that the licensee has represented that work done under the license or certification is covered by insurance or a bond, or both, as applicable.***

Readopt with amendment Env-A 1811.05 through Env-A 1811.07, eff. 10-21-08 (doc. #9298), and renumber as Env-A 1812.07 through Env-A 1812.09, to read as follows:

***Env-A ~~1811.05~~ **1812.07** Review and Decision.***

(a) Applications shall be reviewed by the department in accordance with RSA 541-A:29.

(b) The department shall deny an application for licensure if the applicant:

(1) Submits incomplete information in the application, and has not corrected the omission despite notification pursuant to RSA 541-A:29, I;

- (2) Submits material information in the application that is false or misleading;
  - (3) Does not meet the requirements for licensure specified in Env-A ~~4811.08~~ ***1812.10***;
  - (4) Holds a license or certification that is currently under suspension or that has been revoked pursuant to this chapter or He-P 5000;
  - (5) Meets any of the criteria for denying a license application specified in Env-C 209.02; or
  - (6) Has a performance history, including violations by the applicant or its responsible persons of any state or federal environmental, health, or safety requirement that relates to the type of work for which licensure is sought, that causes the department to conclude that the applicant will not be able to comply with these rules.
- (c) A license shall:
- (1) Be issued in writing for the type of work the applicant is qualified to perform;
  - (2) Be dated and signed by the commissioner or the commissioner's designee;
  - (3) Be valid for a period of 12 months from the date of issuance;
  - (4) Include the name and address of the applicant;
  - (5) Include such terms and conditions as necessary to protect public health, safety, and the environment;
  - (6) Bear a unique identification number; and
  - (7) Be non-transferable.
- (d) Issuance of a license shall not relieve the license holder, including its responsible persons, of the obligation to comply with any other federal, state, or local requirements, including any other obligation for obtaining licenses, permits, training, or other approvals for the work to be performed.

**Env-A ~~4811.06~~ ***1812.08*** License Suspension and Revocation.**

(a) The department shall initiate an action to revoke or suspend a license issued pursuant to this part in accordance with RSA 541-A:30 and the applicable provisions of Env-C 200.

(b) The department shall revoke a license if good cause exists to suspend or revoke the license, as provided by (d) below; and

- (1) The underlying problem(s) cannot be corrected or eliminated; or
- (2) The ***license holder knowingly or intentionally created the*** underlying problem(s) ~~were created by the license holder knowingly or intentionally.~~

(c) The department shall suspend a license if good cause exists to suspend or revoke the license, as provided by (d) below; and

- (1) Given time to do so, the license holder can correct or eliminate the underlying problem(s); and
- (2) The ***license holder did not knowingly or intentionally create the*** underlying problem(s) ~~were not created knowingly or intentionally by the license holder.~~

(d) Good cause to suspend or revoke a license shall exist if the license holder:

- (1) Obtained the license based on false or misleading material information;

- (2) Violated the safe work practices prescribed in state and federal asbestos regulations;
- (3) Has failed to comply with an order of abatement issued pursuant to RSA 141-E:14;
- (4) Meets any of the criteria for suspending, revoking, or refusing to renew a license application specified in Env-C 209.03;
- (5) Has failed to comply with these rules or the terms and conditions of the license; or
- (6) Has a performance history, including violations by the applicant or its responsible persons of any state or federal environmental, health, or safety requirement that relates to the type of work for which licensure is sought, that causes the department to conclude that the applicant will not be able to comply with these rules.

Env-A ~~1811.07~~***1812.09*** License Renewal.

(a) A license holder wishing to renew an expiring license shall apply in writing on a form obtained from the department that includes the following ~~information~~:

- (1) All application information required ~~in~~ ***by*** Env-A ~~1811~~***1812.04(ba)***;
- (2) The license number and issue date of the applicant's expiring or expired license; and
- (3) A list of asbestos disposal site projects conducted by the license holder since the date the expiring license was issued, including for each project the:
  - a. Site location;
  - b. Name of the property owner;
  - c. Project start date;
  - d. Project status;
  - e. Project contact person and telephone number; and
  - f. Project site supervisor.

(b) The application to renew an expiring license shall be ~~dated and signed~~ ***and dated*** as specified in Env-A ~~1810.05-1811.06~~ by the applicant and each responsible person fulfilling the licensing requirement specified in Env-A ~~1811.08(b)~~***1812.12(b)***.

(c) An application fee of \$250 shall accompany each application. Payment shall be in the form of cash, company check, certified check, or money order. A company check, certified check or money order shall be made payable to "Treasurer, State of New Hampshire".

(d) An application to renew an expiring license shall be submitted to the department no more than 60 days prior to the license expiration date.

(e) The department shall process applications to renew an expiring license in accordance with Env-A ~~1811.05-1812.07~~.

(f) An expiring license that is under suspension shall not be renewed before all terms and conditions of the suspension have been fully satisfied.

*Readopt with amendment Env-A 1811.08, eff. 10-21-08 (doc. #9298), as amended eff. 10-18-14 (doc. #10695), and renumber as Env-A 1812.10, to read as follows:*

Env-A ~~1811.08-1812.10~~ ***Requirements for Licensure-Obligations of License Holders.***

- (a) License holders shall be registered and in good standing to do business in New Hampshire, as required by ***New Hampshire law and*** the secretary of state.
- (b) License holders shall have at least one responsible person who is actively involved with decisions regarding the license and related matters; and is certified pursuant to Env-A ~~4842-1813~~.
- (c) License holders shall not undertake any work under the authority of the license unless:
- (1) The work is actively supervised at all times by at least one individual who is certified as an experienced worker pursuant to Env-A ~~4842-1813~~ and meets the requirements of a competent person as specified in 29 CFR 1926.1101 or an on-site supervisor as specified in 29 CFR 1910.120, or both;
  - (2) The work is performed by individuals who hold a valid certificate issued pursuant to Env-A ~~4842-1813~~ and are competent to perform the work;
  - (3) At the work site, the number of workers who are certified as workers-in-training pursuant to Env-A ~~4842-1813~~ does not exceed 5 times the number of workers who are certified as experienced workers pursuant to Env-A ~~4842-1813~~;
  - (4) The license or a certified copy thereof is posted at a conspicuous location at the work site where site conditions do not require personal protective equipment to be worn by those present;
  - (5) The certificates, or copies thereof, of all workers present at the work site are available for inspection by the department and the local health officer at a conspicuous location at the work site where site conditions do not require personal protective equipment to be worn by those present; and
  - (6) A current copy of Env-A 1801, Env-A 1802, Env-A ~~4841-1812~~, Env-A ~~4842-1813~~, and Env-A ~~4843-1814~~, ***Appendix C, and Appendix D*** is available for reference by workers at a conspicuous location at the work site where site conditions do not require personal protective equipment to be worn by those present.
- (d) License holders shall maintain business and personnel records in conformance with federal requirements, including but not limited to:
- (1) 29 CFR 1926.1101(n);
  - (2) 29 CFR 1910.1001(m); and
  - (3) 29 CFR 1910.1020.

*Renumber the heading of Env-A 1812 as Env-A 1813, to read as follows:*

**PART Env-A ~~4842-1813~~ CERTIFICATION OF ASBESTOS DISPOSAL SITE WORKERS**

*Readopt with amendment Env-A 1812.01 and Env-A 1812.02, eff. 10-21-08 (doc. #9298), and renumber as Env-A 1813.01 and Env-A 1813.02, to read as follows:*

Env-A ~~4842-1813~~.01 ***Purpose.*** The purpose of the rules in this part is to implement ~~the provisions in~~ RSA 141-E:11, ***I, which*** ~~that~~ requires individuals who disturb asbestos at asbestos disposal sites to be trained and certified.

Env-A ~~4842-1813~~.02 ***Applicability.*** Except as specified in Env-A ~~4842-1813~~.03, any individual who disturbs asbestos at asbestos disposal sites shall hold a valid certificate issued pursuant to this part.

*Readopt Env-A 1812.03, eff. 10-21-08 (doc. #9298), and renumber as Env-A 1813.03, to read as follows:*

Env-A ~~4842-1813~~.03 ***Exemptions.***

(a) An individual shall not be required to hold a valid certificate issued pursuant to this part in order to undertake a small-scale, short-duration disturbance of asbestos at an asbestos disposal site, subject to the following conditions:

- (1) The individual shall not be under license or certification suspension or revocation pursuant to these rules;
- (2) The quantity of material disturbed shall not exceed one cubic foot;
- (3) The area of disturbance shall not exceed 3 square feet;
- (4) The work shall be completed within 2 hours of being initiated;
- (5) The individual performing the work shall assure that the local health officer is notified before the work commences and that the local health officer and the department are provided access to the work site for inspection;
- (6) The work shall be done in a manner that prevents the release of asbestos fibers and in accordance with other federal, state, and local requirements, including those identified in Env-A 1801.01(b); and
- (7) The work shall not be part of a larger project that is being segmented into small-scale, short-duration tasks.

(b) An individual shall not be required to hold a valid certificate issued pursuant to this part in order to remove non-friable asbestos only from the ground surface to a container for disposal, subject to the following conditions:

- (1) The activity shall not involve excavation below the ground surface;
- (2) The activity shall not involve contact with friable asbestos or asbestos that exhibits friable characteristics; and
- (3) The work shall be done in a manner that prevents the release of asbestos fibers and in accordance with other federal, state, and local requirements, including those identified in Env-A 1801.01(b).

*Readopt with amendment Env-A 1812.04 through Env-A 1812.07, eff. 10-21-08 (doc. #9298), and renumber as Env-A 1813.04 through Env-A 1813.07, to read as follows:*

Env-A ~~1812-1813~~***1813.04 Application for Certification.*** The following provisions shall apply to individuals seeking certification for the first time, individuals seeking re-certification more than one year after their most recent certification has expired, and individuals seeking re-certification after their most recent certification has been revoked:

(a) An individual seeking certification to disturb asbestos at an asbestos disposal site shall apply in writing to the department on a form obtained from the department;

(b) The application shall include the following:

- (1) Name, mailing address, daytime telephone number, and date of birth of the applicant;
- (2) Name, address, and daytime telephone number of each entity or individual licensed, or to be licensed pursuant to Env-A ~~1811-1812~~, with whom the applicant is currently employed or otherwise associated for the performance of work involving the disturbance of asbestos at asbestos disposal sites;

- (3) A list of all state or federal enforcement actions, both past and pending, against the applicant with regard to environmental, health or safety activities, and the current status of each such enforcement action;
- (4) Identification of all certifications and licenses, both past and present, issued to the applicant pursuant to He-P ~~5000~~ 5008, He-P ~~5011~~, He-P ~~5012~~, Env-A ~~1810~~, Env-A ~~1811~~, or Env-A ~~1812~~ **1800**, and the current status of each;
- (5) Whether the applicant is seeking certification as an experienced worker or a worker-in-training, based on the criteria provided in Env-A ~~1812~~**1813**.08(b);
- (6) One 2-inch by 2-inch, current, clear, non-mutilated, and unstapled color photograph of the applicant's face, with the name of the applicant legibly printed on the back side; and
- (7) Written documentation showing that the applicant meets the certification requirements specified in Env-A ~~1812~~**1813**.08, including:
  - a. A record, signed by the training provider(s) under the penalties of RSA 641:3, showing that the applicant attended and completed basic training in accordance with Env-A ~~1813~~**1814**;
  - b. A statement by the applicant attesting that he/she has read and comprehends all information as required by Env-A ~~1812~~**1813**.08(a)(2);
  - c. A test score report issued by the department showing the date and results of an examination taken by the applicant in accordance with Env-A ~~1813~~**1814**.03(c); and
  - d. A work experience record, signed under the penalties of RSA 641:3 by the work supervisor(s), documenting the number of hours the applicant has engaged successfully in the disturbance of asbestos at asbestos disposal sites pursuant to the requirements in Env-A ~~1812~~ **1813**.08(b).
- (c) The application shall be dated and signed as specified in Env-A ~~1810.05~~ **1811.06**.
- (d) An application fee of \$50 shall accompany each application. Payment shall be in the form of cash, company check, certified check, or money order. A company check, certified check or money order shall be made payable to "Treasurer, State of New Hampshire".

Env-A ~~1812~~**1813**.05 Review and Decision.

- (a) Applications shall be reviewed by the department in accordance with RSA 541-A:29.
- (b) The department shall deny an application if:
  - (1) The applicant submits incomplete information in the application and does not correct the omission despite notification pursuant to RSA 541-A:29, I;
  - (2) The applicant submits material information in the application that is false or misleading;
  - (3) The applicant does not meet the requirements for certification specified in Env-A ~~1812~~ **1813**.08;
  - (4) The applicant holds a license or certification that is currently under suspension or that has been revoked pursuant to this chapter or He-P 5000; or
  - (5) The department concludes, based on the applicant's performance history, including violations of any state or federal environmental, health, or safety requirement that relates to the type of work for which licensure is sought, that the applicant will not be able to comply with these rules.



(c) Certification shall:

- (1) Be issued in writing for the type of work the applicant is qualified to perform, including whether the certificate holder is an experienced worker or a worker-in-training, based on the experience requirements provided in Env-A ~~1812-1813~~.08(b).
- (2) Be dated and signed by the commissioner or the commissioner's designee;
- (3) Be valid for a period of 12 months from the date of issuance;
- (4) Include the name, address, date of birth, and photograph of the certificate holder;
- (5) Include such terms and conditions necessary to protect public health, safety and the environment;
- (6) Bear a unique identification number; and
- (7) Be non-transferable.

(d) Issuance of a certification shall not eliminate any obligation of the certificate holder to comply with any other federal, state, or local requirements for the performance of the work, including any obligation to obtain additional training and certifications, licenses, permits, or other approvals.

Env-A ~~1812-1813~~.06 Suspension and Revocation.

(a) The department shall initiate an action to ***suspend or*** revoke ~~or suspend~~ a certification issued pursuant to this part in accordance with RSA 541-A:30 and the applicable provisions of Env-C 200.

(b) The department shall revoke a certification if good cause exists to suspend or revoke the certification, as provided by (d) below; and

- (1) The underlying problem(s) cannot be corrected or eliminated; or
- (2) The underlying problem(s) were created by the certificate holder knowingly or intentionally.

(c) The department shall suspend a certification if good cause exists to suspend or revoke the certification, as provided by (d) below; and

- (1) Given time to do so, the certificate holder can correct or eliminate the underlying problem(s); and
- (2) The underlying problem(s) were not created knowingly or intentionally by the certificate holder.

(d) Good cause to suspend or revoke a certification shall exist if the certificate holder:

- (1) Obtained the certification based on false or misleading material information;
- (2) Cheated on the examination;
- (3) Violated the safe work practices prescribed in state and federal asbestos regulations;
- (4) Has failed to comply with an order of abatement issued pursuant to RSA 141-E:14;
- (5) Meets any of the criteria for suspending, revoking, or refusing to renew a certification application specified in Env-C 209.03;
- (6) Has failed to comply with these rules or the terms and conditions of the certification; or

- (7) Has a performance history, including violations of any state or federal environmental, health, or safety requirement that relates to the type of work for which certification is sought, that causes the department to conclude that the applicant will not be able to comply with these rules.

Env-A ~~1812-1813~~.07 Certification Renewal.

(a) A certificate holder wishing to renew an expiring certification or a certification that has been expired for less than one year, shall apply in writing to the department, on a form obtained from the department, that includes the following information:

- (1) All application information required in Env-A ~~1812-1813~~.04(b)(1) - (6);
- (2) The certificate number and issue date of the applicant's expiring or expired certificate;
- (3) A list of asbestos disposal site projects that the certificate holder has worked on since the date the expiring or expired certificate was issued, including:
  - a. The site location;
  - b. The name of the property owner;
  - c. The name, address, and telephone number of the license holder for whom the certificate holder performed the work;
  - d. The name, address, and telephone number of the project site supervisor;
  - e. The date the project commenced and the date the project was completed; and
  - f. The nature of the work performed.
- (4) A statement by the applicant attesting that the annual refresher training requirements specified in Env-A ~~1813-1814~~.05 have been satisfied;
- (5) A test score report issued by the department showing the date and results of an examination taken by the applicant in accordance with Env-A ~~1813-1814~~.03(c); and
- (6) If seeking to have the certification upgraded from a worker-in-training certification to an experienced worker certification, the information specified in Env-A ~~1812-1813~~.10(a)(2) and (3).

(b) An application to renew an expiring certification shall be dated and signed as specified in Env-A ~~1810.05 1811.06~~ by the applicant.

(c) An application fee of \$50 shall accompany each application. Payment shall be in the form of cash, company check, certified check, or money order. A company check, certified check or money order shall be made payable to "Treasurer, State of New Hampshire".

(d) Applications to renew an expiring certification shall be submitted to the department no less than 45 days and no more than 60 days prior to the expiration date of the certification.

(e) Applications to renew an expiring certification shall be processed in accordance with Env-A ~~1812 1813~~.05.

(f) An expiring certification that is under suspension shall not be renewed before all terms and conditions of the suspension are fully satisfied.

*Readopt with amendment Env-A 1812.08, eff. 10-18-14 (doc. #10695), and renumber as Env-A 1813.08, to read as follows:*

Env-A ~~1812-1813~~.08 Requirements for Certification.

- (a) No individual shall be granted a certification pursuant to this part, unless the individual has:
  - (1) Completed training in accordance with Env-A ~~1813-1814~~;
  - (2) Read and comprehended all information provided in a document published by the department in May, 2000, titled: Guidance for Managing Asbestos Disposal Sites; and
  - (3) Scored 70 percent or better on an examination in accordance with Env-A ~~1813-1814~~.03(c).
- (b) An individual shall be certified as either an experienced worker or a worker-in-training, as specified in (c) or (d), below.
- (c) To qualify as an experienced worker, an individual shall have successfully performed at least 40 hours of work involving the disturbance of asbestos at asbestos disposal sites according to the following:
  - (1) For work experience accrued on or after May 22, 2001, the individual shall have performed the work under the supervision of an individual who is certified as an experienced worker pursuant to these rules and who meets the requirements of either a competent person as defined in 29 CFR 1926.1101 or an on-site supervisor as defined in 29 CFR 1910.120, or both;
  - (2) For work experience accrued before May 22, 2001, the individual shall have performed the work either:
    - a. As a competent person as specified in 29 CFR 1926.1101 or as an on-site supervisor as defined in 29 CFR 1910.120, or both; or
    - b. Under the supervision of a competent person as specified in 29 CFR 1926.1101 or an on-site supervisor as specified in 29 CFR 1910.120, or both; and
  - (3) One or a combination of the following may be substituted for up to 10 hours of asbestos disposal site work experience, as required in (b)(1) above:
    - a. Ten hours or less of work experience at a hazardous waste site under the supervision of a competent person as specified in 29 CFR 1901.120; or
    - b. Ten hours or less of work experience on an asbestos abatement project as an asbestos abatement worker or an asbestos abatement supervisor under the authority of a licensed asbestos abatement contractor as specified in Env-A ~~1810-1811~~.13 or Env-A ~~1810-1811~~.14.
- (d) Any individual who has not yet met the experienced worker requirements specified in (c), above, shall be a worker-in-training.

*Readopt with amendment Env-A 1812.09 and Env-A 1812.10, eff. 10-21-08 (doc. #9298), and renumber as Env-A 1813.09 and Env-A 1813.10, to read as follows:*

Env-A ~~1812-1813~~.09 Limitations. Individuals certified pursuant to this part shall be authorized to disturb asbestos at an asbestos disposal site only when the activities are authorized by an entity or individual licensed pursuant to Env-A ~~1811-1812~~, unless the work is license-exempt work pursuant to Env-A ~~1811-1812~~.03.

Env-A ~~1812-1813~~.10 Upgrading a Worker-in-Training Certification.

- (a) The department shall upgrade a current worker-in-training certification to an experienced worker certification following receipt of a written request by the certificate holder that includes the following information:
  - (1) The certificate holder's name, mailing address, date of birth, daytime telephone number, and certificate number;

(2) A written record, dated and signed as specified in Env-A ~~1810.05~~ ***1811.06*** by the individual(s) who supervised the work, documenting that the certificate holder has successfully completed at least 40 hours of work involving the disturbance of asbestos at asbestos disposal sites, as required by Env-A ~~1812-1813~~.08(b); and

(3) A statement, dated and signed as specified in Env-A ~~1810.05~~ ***1811.06*** by the individual(s) who supervised the work, attesting that the certificate holder is competent in the performance of his/her certification-related duties.

(b) The certification upgrade shall be issued in writing to the applicant.

*Readopt with amendment Env-A 1813, eff. 10-21-08 (doc. #9298), and renumber as Env-A 1814, to read as follows:*

PART Env-A ~~1813-1814~~ TRAINING REQUIREMENTS FOR CERTIFIED ASBESTOS DISPOSAL SITE WORKERS

Env-A ~~1813-1814~~.01 Purpose.

(a) The purpose of this part is to establish the scope of training required to obtain and renew a certification pursuant to Env-A ~~1812-1813~~.

(b) The training described in this part is intended to supplement, and not to replace or wholly satisfy, federal training requirements for working with asbestos, including, as applicable:

- (1) 29 CFR 1926.1101;
- (2) 29 CFR 1910.120; and
- (3) 40 CFR 763.

Env-A ~~1813-1814~~.02 Applicability. The rules in this part shall apply to all individuals seeking certification pursuant to Env-A ~~1812-1813~~.

Env-A ~~1813-1814~~.03 Training Requirements.

(a) The following individuals shall be trained pursuant to the basic training program requirements in Env-A 1813.04 prior to applying for certification pursuant to Env-A ~~1812-1813~~:

- (1) Individuals not previously certified pursuant to Env-A ~~1812-1813~~;
- (2) Individuals holding a certificate issued pursuant to Env-A ~~1812-1813~~ that has been expired for over one year before the date an application for renewal is submitted pursuant to Env-A ~~1812-1813~~;
- (3) Individuals holding a certificate that has been revoked pursuant to He-P ~~5042-5000~~ or Env-A ~~1812-1800~~; and
- (4) Individuals wishing to obtain certification who have failed the post-training examination, as provided in Env-A ~~1813-1814~~.06, 3 consecutive times.

(b) The following individuals shall satisfy the annual refresher training requirements in Env-A ~~1813-1814~~.05 prior to applying for certification renewal pursuant to Env-A ~~1812-1813~~:

- (1) Individuals holding an expiring certificate issued pursuant to Env-A ~~1812-1813~~; and
- (2) Individuals holding a certificate issued pursuant to Env-A ~~1812-1813~~ that has been expired for one year or less before the date an application for renewal is submitted pursuant to Env-A ~~1812-1813~~.

(c) After training pursuant to either (a) or (b), above, is completed, and within 6 months prior to filing an application to obtain or renew certification, the trainee shall take and pass an examination as specified by Env-A ~~1813-1814~~.06.

Env-A ~~1813-1814~~.04 Basic Training Program.

(a) Basic training shall be obtained through a program, or combination of programs, that covers no less than the following topics through a combination of lecture, interactive presentation, and hands-on activity:

- (1) Asbestos identification, specifically including the identification of asbestos at asbestos disposal sites located in New Hampshire;
- (2) History, characteristics and location of asbestos disposal sites in New Hampshire;
- (3) Human health effects due to asbestos exposure, including the relationship to smoking and contact information for smoking cessation;
- (4) Relevant federal, state, and local regulations, including Env-Sw 2100;
- (5) Personal protective equipment;
- (6) Medical monitoring;
- (7) State of the art work practices for disturbing asbestos at asbestos disposal sites, including:
  - a. Site characterization;
  - b. Site control and site security;
  - c. Neighborhood protection;
  - d. Air monitoring and asbestos fiber control;
  - e. Cut and fill techniques;
  - f. Bulk containment, transportation, and disposal of asbestos waste;
  - g. Decontamination procedures for personnel and equipment;
  - h. Site closure requirements and clearance determinations pursuant to Env-Sw 2100;
  - i. Sampling techniques; and
  - j. Managing site emergencies; and
- (8) Best management practices for maintaining closed sites and protecting public health.

(b) The basic training program shall be taught using a combination of lecture, interactive presentation, and hands-on activity.

Env-A ~~1813-1814~~.05 Annual Refresher Training.

- (a) Annual refresher training shall be self-administered by the certificate holder.
- (b) Annual refresher training shall include the following:
  - (1) Review of written materials and other information obtained during basic training;
  - (2) Review of the document published by the department in May, 2000, titled Guidance for Managing Asbestos Disposal Sites; and
  - (3) Review of current and relevant federal, state, and local regulations, including these rules.

Env-A ~~1813~~***1814***.06 Post-Training Examinations.

- (a) Examinations required pursuant to this part shall be administered by the department.
- (b) The department shall schedule examinations by request during regular business hours at a time convenient to both the applicant and the department.
- (c) Examinations shall be designed by the department to test the trainee's understanding of:
  - (1) The information covered by the basic training program;
  - (2) The document published by the department in May, 2000, titled Guidance for Managing Asbestos Disposal Sites; and
  - (3) Current and relevant federal, state and local regulations.
- (d) The department shall administer the examination orally to any individual who so requests an oral examination due to a reading difficulty.
- (e) A passing score on the examination shall be 70 percent or greater.
- (f) To obtain a passing score, an individual shall be allowed to retake the required examination up to 3 times before having to re-attend basic training.
- (g) The department shall report the examination score to the examinee in writing.

*Readopt with amendment Env-A 1814, eff. 10-21-08 (doc. #9298), and renumber as Env-A 1815, to read as follows:*

PART Env-A ~~1814~~***1815*** WAIVERS FROM LICENSURE RULES

Env-A ~~1814~~***1815***.01 Purpose. The ***purpose of the*** rules applicable to asbestos licensure are intended to apply to a variety of situations. It is recognized that strict compliance with all such rules proscribed may cause hardship or not fit every conceivable situation. Pursuant to RSA 541-A:22, IV, the department ***in this part is to*** establishes these procedures and criteria ***for granting waivers*** to accommodate those situations where strict adherence ***to a particular requirement*** would not be in the best interest of the public.

Env-A ~~1814~~***1815***.02 Procedures for Requesting a Waiver.

- (a) Any person who is or would be directly affected by the strict application of a rule in Env-A ~~1810~~***1811***, Env-A ~~1811~~***1812***, Env-A ~~1812~~***1813***, or Env-A ~~1813~~***1814*** may request a waiver thereof.
- (b) Each request for a rule waiver shall:
  - (1) ~~Be~~ ***Be*** in writing; ***and***
  - (2) ~~Each request for a rule waiver shall include~~ the information specified in Env-A ~~1814~~***1815***.03.

Env-A ~~1814~~***1815***.03 Content and Format of ***Waiver*** Requests.

- (a) The person requesting the rule waiver shall provide the following information:
  - (1) The name, address, and daytime telephone number of the person requesting the waiver;
  - (2) Identification of the specific rule(s) from which the applicant is seeking a waiver;
  - (3) The period of time during which the applicant wishes the waiver to be effective;



- (4) A description of the specific project(s) to which the waiver is intended to apply or a statement that the requested waiver is intended to apply without regard to a specific project(s);
  - (5) A full explanation of why the waiver is necessary, including an explanation of the ~~hardship that would be caused by having to~~ ***economic and operational consequences of*** complying with the rule ***as written***;
  - (6) A full explanation, with supporting data, of the alternative(s), if any, that the applicant proposes to use in lieu of complying with the rule;
  - (7) A full explanation of how each of the alternatives proposed pursuant to (6) above, is consistent with the purpose and intent of RSA 141-E and Env-A 1800, and is otherwise adequate to protect public health, safety and the environment; and
  - (8) A list of all state and federal enforcement actions, both past and pending, against the applicant, including responsible persons in its employ, with regard to environmental, health or safety activities, and the current status of each such enforcement action.
- (b) Each request for waiver shall be dated and signed by the applicant ***as specified in Env-A 1811.06***.
- ~~(c) The signature shall constitute certification that:~~
- ~~(1) All information therein is true, complete, and not misleading to the knowledge and belief of the signor; and~~
  - ~~(2) The signor understands that any waiver granted based on false, incomplete, or misleading information shall be subject to revocation.~~

Env-A 1814-~~1815~~.04 Criteria for Granting a Waiver.

- (a) Subject to (b), below, the department shall grant a request for a rule waiver if:
- (1) Granting the request will not result in an adverse effect to public health, public safety, the environment, or the natural resources of the state of New Hampshire; and
  - (2) One or more of the following conditions will be satisfied:
    - a. Granting the request is consistent with the purpose and intent of the rule being waived; or
    - b. Strict compliance with the rule will provide no benefit to the public and will cause an operational or economic hardship to the applicant.
- (b) No rule waiver shall be granted if the effect of the waiver would be to waive or modify:
- (1) A federal or state statutory requirement, unless the statute specifically allows for a waiver; or
  - (2) A federal or state constitutional requirement.

Env-A 1814-~~1815~~.05 Decisions.

- (a) The department shall notify the person requesting the waiver of the decision in writing.
- (b) A notice of denial shall state clearly the reason(s) for denial.
- (c) A notice of approval shall include the terms and conditions under which the waiver is granted, including the effective date and expiration date.

**APPENDIX A: STATE STATUTES AND FEDERAL REGULATIONS IMPLEMENTED**

<b>Rule Number(s)</b>	<b>State Statute(s) Implemented</b>	<b>Federal Regulations Implemented</b>
Env-A 1801.01	RSA 141-E:1	
Env-A 1801.02	RSA 141-E:3	
Env-A 1802.01-1802.04; 1802.07-1802.11; 1802.13-1802.17; 1802.20; 1802.22-1802.31; 1802.33-1802.42; 1802.45-1802.46; 1802.48-1802.52; 1802.54-1802.55; 1802.58	RSA 141-E:4	
Env-A 1802.05	RSA 141-E:2, I	
Env-A 1802.06	RSA 141-E:2, II	
Env-A 1802.12	RSA 141-E:2, III	
Env-A 1802.18-1802.19	RSA 141-E:4	40 CFR 61.141
Env-A 1802.21	RSA 141-E:2, IV	
Env-A 1802.32	RSA 141-E:2, VI	
Env-A 1802.43	RSA 141-E:4	40 CFR 763, subpart E, appendix C
Env-A 1802.44	RSA 141-E:4	40 CFR 61.141
Env-A 1802.47	RSA 141-E:2, VII	
Env-A 1802.53	RSA 141-E:2, VIII	
Env-A 1802.56	RSA 141-E:4	40 CFR 763, subpart E, appendix C
Env-A 1802.57	RSA 141-E:2, IX	
Env-A 1802.59	RSA 141-E	40 CFR 61.141
Env-A 1803.01-.08	RSA 141-E:3, XI	
Env-A 1803.09	RSA 141-E:12, II	
Env-A 1804.01-.04	RSA 141-E:3, X	
Env-A 1804.03(a)	RSA 141-E:3, X	40 CFR 61.145
Env-A 1804.05-.07	RSA 141-E:8 & 13	
Env-A 1804.08	RSA 141-E:8, III	
Env-A 1804.09	RSA 141-E:12	
Env-A 1805 & 1806 & 1807	RSA 141-E:3, VIII; RSA 141-E:9	
Env-A 1805.08	RSA 141-E:3, VIII; RSA 141-E:9	40 CFR 61.150
Env-A 1808.01	RSA 141-E:4, II(a)(3)	42 U.S.C. 7412; 40 CFR 61, Subpart M
Env-A 1808.02	RSA 141-E	15 U.S.C. 2643(m); 40 CFR 763, Subpart E
Env-A 1809	RSA 141-E:8 & 13	
Env-A 1810	RSA 141-E:4, II & VIII	
Env-A 1810.06 intro	RSA 141-E:4, II & VIII	40 CFR 763, subpart E, Appendix C
Env-A 1811	RSA 141-E:4, II & VIII; RSA 141-E:10-11	
Env-A 1811.08	RSA 141-E:12	
Env-A 1812	RSA 141-E:4, XV; RSA 141-E:10	
Env-A 1812.08(c)	RSA 141-E:4, XV; RSA 141-E:10	29 CFR 1910.120, 29 CFR 1926.1101
Env-A 1813	RSA 141-E:4, XV; RSA 141-E:11	
Env-A 1813.08	RSA 141-E:4, XV; RSA 141-E:11	29 CFR 1910.120, 29 CFR 1926.1101
Env-A 1814	RSA 141-E:4, XV	
Env-A 1815	RSA 141-E:4, XII	

**APPENDIX B: INFORMATION ON DOCUMENTS INCORPORATED BY REFERENCE**

[to be inserted]

**APPENDIX C: STATUTORY DEFINITIONS****141-E:2:**

I. “Asbestos” means amosite, chrysotile, crocidolite, or asbestiform tremolite, actinolite, or anthophyllite.

II. “Asbestos abatement” means any of the following activities:

(a) The wrecking or removal of any load-supporting structural member containing or covered by RACM, as defined in paragraph VII;

(b) The encapsulation, coating, binding, or resurfacing of structural members, walls, ceilings, or other building surfaces, or ducts, pipes, boilers, tanks, reactors, furnaces, or other vessels containing RACM for the purpose of minimizing the potential for fiber release;

(c) The construction of airtight enclosures by the use of impact resistant materials to isolate surfaces coated or containing RACM;

(d) The removal or stripping of RACM from structural members, walls, ceilings, or other building surfaces, or ducts, pipes, boilers, tanks, reactors, furnaces, or other vessels; and

(e) The repair of RACM to minimize the likelihood of fiber release from damaged areas. Repair may include, but shall not be limited to, application of duct tape, rewettable glass cloth, canvas, cement, or other suitable materials to seal exposed areas where asbestos fibers may be released, or repair of damaged, previously encapsulated, RACM with non-asbestos substitutes; and re-encapsulation or repair of enclosures around RACM.

III. “Asbestos disposal site” means land where asbestos waste exists, either in or on the ground, due to dumping activities which ceased by July 10, 1981. The term includes inactive disposal sites as defined by 40 CFR 61.141. The term does not include any disposal site which is subject to the permitting requirements of RSA 149-M.

IV. “Contractor” means any partnership, firm, association, corporation, or sole proprietorship which engages in asbestos abatement activities and/or activities involving the disturbance of asbestos at asbestos disposal sites.

VI. “Friable asbestos material” means any material that contains more than one percent of asbestos by weight, area, or volume and that can be crumbled, pulverized, or reduced to powder when dry by hand pressure.

VII. “Regulated asbestos-containing material” or “RACM” means:

(a) Friable asbestos-containing material;

(b) Category I non-friable asbestos-containing material, as defined by 40 CFR 61.141, that has become friable;

(c) Category I non-friable asbestos-containing material, as defined by 40 CFR 61.141, that will be or has been subjected to sanding, grinding, sawing, or abrading; or

(d) Category II non-friable asbestos-containing material, as defined by 40 CFR 61.141, that will likely become or has become crumbled, pulverized, or reduced to powder by the forces expected to act on the material in the course of demolition or renovation operations.

VIII. “School asbestos abatement planning” means any of the following activities:

(a) The inspection of school buildings for asbestos-containing materials;

(b) The preparation of plans for asbestos abatement in schools, pursuant to P.L. 99-519; or

(c) The design of asbestos abatement projects for school buildings.

IX. “Structural member” means any beam, ceiling, floor, or wall.

**APPENDIX D: FEDERAL DEFINITIONS****40 CFR 61.141:**

*Category I nonfriable asbestos-containing material (ACM)* means asbestos-containing packings, gaskets, resilient floor covering, and asphalt roofing products containing more than 1 percent asbestos as determined using the method specified in appendix E, subpart E, 40 CFR part 763, section 1, Polarized Light Microscopy.

*Category II nonfriable ACM* means any material, excluding Category I nonfriable ACM, containing more than 1 percent asbestos as determined using the methods specified in appendix E, subpart E, 40 CFR part 763, section 1, Polarized Light Microscopy that, when dry, cannot be crumbled, pulverized, or reduced to powder by hand pressure.

*Owner or operator of a demolition or renovation activity* means any person who owns, leases, operates, controls, or supervises the facility being demolished or renovated or any person who owns, leases, operates, controls, or supervises the demolition or renovation operation, or both.

**40 CFR 763, Subpart E, Appendix C:**

I. A. 8. “Small-scale, short-duration activities (SSSD)” are tasks such as, but not limited to:

- a. Removal of asbestos-containing insulation on pipes.
- b. Removal of small quantities of asbestos-containing insulation on beams or above ceilings.
- c. Replacement of an asbestos-containing gasket on a valve.
- d. Installation or removal of a small section of drywall.
- e. Installation of electrical conduits through or proximate to asbestos-containing materials.

SSSD can be further defined by the following considerations:

- f. Removal of small quantities of ACM only if required in the performance of another maintenance activity not intended as asbestos abatement.
- g. Removal of asbestos-containing thermal system insulation not to exceed amounts greater than those which can be contained in a single glove bag.
- h. Minor repairs to damaged thermal system insulation which do not require removal.
- i. Repairs to a piece of asbestos-containing wallboard.
- j. Repairs, involving encapsulation, enclosure, or removal, to small amounts of friable ACM only if required in the performance of emergency or routine maintenance activity and not intended solely as asbestos abatement. Such work may not exceed amounts greater than those which can be contained in a single prefabricated mini-enclosure. Such an enclosure shall conform spatially and geometrically to the localized work area, in order to perform its intended containment function.